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PHYSICS AND POLITICS*

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The Atomic Bomb. In 1869, Walter Bagehot wrote an interesting volume entitled *Physics and Politics.* Today we look again at this topic, but in a new and blinding light. The atomic bomb is an index of dynamic and revolutionary changes, the end of which is not in sight, and which I do not have the temerity to forecast. Even before the bomb was made, there were revolutionary changes on the way. We were on notice that physics, biochemistry, psychology, medicine, were bursting with possibilities which staggered the imagination of the most starry-eyed.[1] This was before the bomb was dropped. Now we know that we were on the beam. We are now confronted by revolution, dimming in meaning all human revolutions rolled into one.

First of all, the meaning of controlled atomic energies is often wholly misunderstood. The real marvel is not that these vast forces exist, but that they are found and harnessed by the human mind. The real explosive force is that of the mind that unleashed these giants and made them available for the service of mankind. The mind is king, not the atom. We trapped the atom; we have mastered some secrets of its latent forces, not by accident, but by deliberate design, by organization and ingenuity. We may marvel at the display of physical force, but the deeper force of mind made this triumph possible, and will bring still greater triumphs as we move along through eras of discovery and invention. The atomic bomb is a symbol of death and destruction; but it may also be a symbol of life, of construction, of a germinal principle which will

* Adapted from an address delivered before the American Political Science Association at Philadelphia, Mar. 29, 1946.

[1] See Merriam, *Systematic Politics*, p. 261; Symposium on Atomic Energy and Its Implications, *Proceedings of American Philosophical Society* (1946); *The Politics of Atomic Energy* (Woodrow Wilson Foundation, 1946).

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create new conditions for mankind with science and organization as the guides to human goals of happiness and freedom long dimly seen. To say that modern man is obsolete is an interesting literary phrase, but the precise opposite is true. Modern man is coming of age.

It is, of course, possible that the atomic energies now unleashed in the form of the atomic bomb may prove to be uncontrollable under prevailing modern conditions, and that we may have come to the end of what H. G. Wells has called a "cosmic episode," relegating the world and all that dwell therein to dissolution and reintegration in the whirling universe of which we are a part. This I cannot disprove, but I prefer to take the other hypothesis that man can and will control the forces he has set in motion through the exercise of reason, science, and good will.

World Community. In this new era, there is little prospect of survival unless we can eliminate violence as a means of settling disagreements, and establish peace through a jural order of the world. This is a task to which the students of government may make a large and significant contribution, provided they "have what it takes to be ancestors."

Long before the atomic bomb fell, it was clear that the emerging characteristics of political association were not primarily territorial or ethnic. They are cultural, moral, fraternal, and human. The indications drawn from historical trends, from analysis, from reflection, intuition, and religion alike, point to larger areas of authority circling the globe, to kinship expanding beyond race to the brotherhood of man. Machiavelli discussed the relation of fear and love as directives of behavior. In this case, they join forces.

But in what directions and in what manner shall we advance? I begin not with structure, but first ask: "What is it that men have in common in this World Community?" We build around and upon what the world of man has in common. This calls for a new analysis and declaration of the common rights of man, and of what is needed to protect and foster them. Here are the civil rights and political liberties long recognized in theory. We add, in modern times, freedom of communication of words and images throughout the world. We add freedom of scientific research, and the dissemination of the results of inquiry. Men were not long successful in blocking Galileo or Darwin. We cannot exclude at this point the greatest of scientific discoveries in our age.

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But there may be vast production of goods and services without a large share of justice and freedom in the society. It is consequently one of the problems of politics to examine the conditions and satisfactions of wants and their relation to freedom and justice. Otherwise the world may become a whirling mechanism of fantastic power and speed, directed toward other than human and public ends—a world peopled chiefly by robots who produce incredible results for ends they neither understand nor approve. And the cry may once again arise: Was it for this mankind came into the world?

Our common civil and political rights in the formal and constitutional sense alone will leave liberty a mockery unless they are reënforced by the framework of conditions in which personal rights may take root and grow and flower into the promise of their type. We have in common the need for freedom from fear and want, for guarantees of employment, education, health, housing, recreation, and cultural advantages. In broadest form, this means a fair share in the growing gains of civilization. Economic structure, class structure, racial structures, national structures, may give the lie to words piously uttered, unless the dignity of man is translated into responsible freedom and equality. This, too, is a challenge to the constructive ability of the technicians of government in times to come, when old energies long latent have been newly released and applied to man's needs; in a sense, the challenge of challenges. The U.N., the Economic and Social Council, the Commission on Human Rights, will meet this problem in the near future. Let us hope that they rise to the height of this great occasion in framing a flaming declaration of the rights of man.

Consent of the Governed. At the threshold of the atomic era, we encounter new and very difficult problems in the organization on all levels of common human rights and the consent of the governed —the basis of protection and development of human personalities. Far greater concentrations of power than ever before known are on the way, in fact at the door. The time within which basic decisions must be made is short.

As never before, elements dealing with atomic energies will confront each other as follows: (1) military power and controls; (2) scientific power and controls; (3) industrial powers and controls; (4) the powers and controls of civil government.

Armies, scientists, big business, the common man—all these titanic powers must be united and interwoven for purposes of

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security, and beyond that for peaceful exploitation of their possibilities. Centralization of power and authority must inevitably exist for some time in the construction and operation of huge and costly organizations of power.

How shall these forces be related effectively to each other in the interest of efficiency; and beyond that, how shall civilian controls be made effective over these developments? How shall the consent of the governed, the basic principle of democracy, be organized and operated under these conditions? Even the time-honored principle of subordination of the military to the civil power is already threatened, even in the home of democracy.

I raise my voice to warn that unless the greatest care is taken and the soundest judgment dominant, human liberty may be lost at the close of a war for freedom—lost in the toils of concentrated dictatorship such as has never been seen before. Already we find that the régime of fear may stand in the way of full use of atomic energies, for alleged reasons of military necessity and security. Even now the full realization of scientific possibilities for human welfare is threatened—from the fear that military secrets may be used for industrial purposes, because they are so closely intertwined. This might be called an unconditional surrender to fear.

Wars are made in the minds of men, and so is the secret of physics found by the mind of man. We can find the clue that leads from violence to peaceful adjustment if we have the will to advance toward this objective. I have no doubt that we can and will solve this problem, but we must expedite thought and action now, before it is too late. This is a primary problem of the new physics and the new politics.

World Government on a Wider Basis. Many types of structural association are needed to meet the demand for a jural order of the world. Of course we require a world court for the consideration and decision of justiciable questions and for arbitration and like forms of friendly offices. We need a world council for such common purposes as may be agreed upon in the interest of the common good, looking to the ends of security, order, justice, welfare, and freedom; the protection and development of basic common human rights. I am not discussing here the composition, organization, power, and procedures of such a body. Of paramount importance is the setting up of an assembly looking at the recognized common good with a view to utilizing the common wisdom, the common will and com-

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mon sense of participation in policy. I assume that we will build on the foundation of the U.N. eventually.

But what kind of a council will or might this be? What will be the system of representation? What shall be the relationship of the lawmaking body to the headship or leadership of the association? Already the amateurs are rushing forward with dogmatic conclusions and plans. What have the professionals to say? What will be the form and rôle of budgeting in the broadest sense, of planning in the best sense, of personnel principles and practices, in the new order into which we come? What types of men are needed as world leaders—prophets, priests, warriors, demagogues? What types of managers may be desirable? What are the steps and stages by which the existing U.N. may emerge into a broader instrument of world government with the least shock and loss? This is a problem of politics in the best sense.

Self-Government. World government is not the death of self-government, but its new birth and life. When the necessity for military self-defense in the physical sense has disappeared, many associations will be in a position to flower and flourish as never before; labor, agriculture, industry, educational, scientific, cultural groups, may all proliferate as never before. What shall be their respective spheres of autonomy, of self-government in the best sense of the term? Here is an opportunity for the richest development of cultural autonomy the world has ever seen, and also room for unending jangles and clashes. No other group seems to be in as good a position to aid in reorientation and reorganization as the students of government, if they care to address themselves to this undertaking. Here arises, indeed, in new form the old problem of the metes and bounds and nature of what may be called, for lack of a better term, accountability—legal and governmental or otherwise in myriad forms.

There will always remain a wide spread of questions which will be determined by the consent of the governed, expressed in various forms. The social sensitivity of the expert on the one hand, and the sensitivity of the citizen to experts will call for balance and adjustment, perhaps of greater significance than the traditional balance of powers. If the vast weight and speed of scientific and social phenomena cannot be tempered and throttled down to the ultimate judgment of the citizen, the prospect for freedom is very slight indeed. The guarantees of justice and liberty are not to be found

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merely in balances of authorities, in parochialism and isolation, in division and subdivision as brakes against size and power and speed, but in the area of intelligent appreciation of the diversity in unity of political problems, insight into the ways and means of maintaining necessary oversight of the persons to whom power is committed for a moment. A necessary balance is that between the long-time and the short-time judgments and decisions, and the classification and interpretation of them. Unless a long-time view can be taken, coupled with a short-time flash of action, the new forces may wipe out the world in a moment, rather than in long stages of agony and anxiety.

In this area much thinking and much experimentation remain to be done in the not too distant future. What will be the rôle of international labor organizations such as the ILO and the ITUC; of scientific societies, such as those centering around UNESCO; of business and agriculture; of managers; of races; religions, and regions? What sort of a network of public and private government will be woven in the course of time?

Unquestionably, many new forms of affiliations and adherences will spring up around the Economic and Social Council, and especially about the new UNESCO. All sorts of supporting associations, and even individuals, will gather around the UN, puzzling the astute diplomats and the subtle jurists, but finding a basis of community of interests. There may well develop new forms of citizenship, with new content and implications in a new period.

The place of the national state, now the most powerful association in the world, will be subject to constant reconsideration and to readjustment, with varying views and institutions of world order. How shall world authority be adjusted to the symbolism and the sovereignty of national authorities? The historic precedents of federalism and of direct jurisdiction of the central authority without regard to intervening authorities will doubtless be in fact, have already been, raised; but these older analogies may not be found sufficiently elastic or inventive to meet the new demands of the new and far more complex social forces and institutions.

Far be it from me to suggest that political science might be utilized in clearing away the clinging fogs that prevent navigation in the zone of sovereignty, so dear to the hearts of those who use sovereignty to block what sovereignty was invited to bring—a broader base of human unity. The difficulty is not with the concept

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of sovereignty, but with those who twist it out of focus and produce a caricature of sovereignty that never was on land or sea. If political science wishes to abdicate in the task of framing a world order, will it at least designate a regent, or some temporary or provisional agency to take over the job?

Peace-time Development. A basic common need in a world community is that of systematic, energetic planning for the expansion of income and the development of resources, human and natural, everywhere—planning that will release productive energies, enlarge production, and bring rising living standards for all men. Those who scoffed at planning, safe in their own well-cushioned security, will be forgotten except as examples of prescientific doubt and drift.

One of the implications of atomic energies is that we must be prepared to reckon with fundamental changes in the basic factors of our social-industrial system. We do not yet know how rapidly it will be possible to harness the new-found energies to our system of production, distribution, and consumption. Many estimators, I must say, seem as timid as the atomic bombers were bold. Some seem even frightened about proceeding with nuclear energies and would fold their hands awhile. But we are on notice that, within the not too distant future, revolutionary changes will be made in this area. We shall be obliged to consider, not alone the organization of work, but also the organization of leisure time—the problem of recreational and cultural developments for millions of workers. Once the basic essentials of a job, of food, of shelter, of education, of medicine, are satisfied, what new type of social pattern emerges? Production, employment, stabilization, enterprise, profit, incentives, the balances between goods, services, and leisure, must be reconsidered in the light of new forces unleashed and attached to new machines. The proletariat tends to disappear, or if you choose to put it that way, the proletariat is all-inclusive and no longer a mark of differentiation.

Even before the atomic age, this movement was well under way. The bomb, I reiterate, is only a symbol of vast changes going on in the rise and application of human intelligence to the world around us. The social pressures and controls involved in hunger, disease, poverty, want, were already on their way out. But the process has been accelerated many fold, not only in physics, but also in chemistry, in biology, in medicine.

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If two billion dollars, the amount the atomic bomb cost, were spent on the peace-time application of atomic energies, marvelous advances might be made in the processes of production and in the improvement of the living and working conditions of mankind, in the enrichment of life and liberty—at home and everywhere. If I were a budgeteer, I would put this item in the proper budget and I would add a cipher in a ten-year plan. The last war cost hundreds of billions—difficult to calculate, since the effort and sacrifice transcend money values. How much could we afford to spend for peace-time use of the same dynamic force?

It cannot be too strongly stated that the driving motive need not be the fear of death, but the hope of life—richer and finer life than mankind has ever known—life more abundant. Even before the novelty of the roar and surge of the new power has died down, we can prepare for the utilization of the fantastic wealth of forces available for the satisfactions of the wants of man.

Education. As an example of impending change, the development of our educational system is certain to take on new meaning and new forms. There will be no excuse in the new era for basic ignorance, for low-level susceptibility, for unbalanced and untrained minds and bodies. When the differentials established by custom and violence have been swept away, there comes a new type of man. It was Rousseau who said many years ago: "If there are slaves by nature, it is because there have been slaves against nature."

But civic education as a part of the larger education will likewise be exposed to important modifications and developments. Tribal tradition, which has loomed so large in political education, will play a less important rôle, not by the abandonment of the experience of the race, but by its incorporation into a larger frame of reference—forward looking as well as backward. Imagination, invention, facility in creative controls, swiftness in perception and in synthesis of what is perceived—these will become a part of the education of all men and women.

Without the prodigious development of the possibilities of civic education at such points, it will be impossible to maintain any system of the consent of the governed; for without close *rapport* between those who are accountable and those to whom they account, the swift and comprehensive action patterns of the future cannot operate.

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Skills. What are the implications of the atomic age for the skills and organs of government—the adjudicative, the conciliar, the administrative and managerial? With or without world government, these must be carefully sifted through in the approaching time. How will the ends of government—justice, order, welfare, freedom—be realized through those agencies as time goes on—full speed ahead? I do not know the institutional answers to these problems; nor can I predict what a book on government will look like, say twenty years from now. But I do know that many of the institutions of our day must go into the crucible—to come out in what form I cannot know.

What will be their performance in a world of new energies and new releases of human activities? We know that courts function best in static periods; we know that legislative bodies struggle hard to deduce policies without being either arbitrary and petty on the one hand, or the rubber-stamp of experts on the other. Management, if it can escape the occupational disease known as bureaucracy, has less difficulty in close relationships with technicians and scientists.

How can we tap the intelligence, the will, the psychic energies, of men to meet the new demands of leaders and mass alike—for one cannot function without the other? More than ever before, the catalytic agency of politics will be essential for the full functioning of social forces in the framework of society. Politics of the atomic age must raise its sights and expand its skills and techniques to meet the new situations as they sweep down upon us. This is a challenge to the flexibility, the resourcefulness, the creative quality, the inventiveness, of politics.

But all of these inventions have little meaning except as they are pointed toward the long-time goals of politics—too often forgotten in the detail of the necessary tasks of road-building and transportation.

Some of the figures now hopping about audaciously under the alias of power politics; the old *Realpolitik* of the nineteenth century; élites, projection of the ghost of Pareto; earthy old geopolitics of Haushofer, no longer geopoliticising; *fuererschaft* of the type woven by the madmen of Germany and Italy; and other perennials in the taxonomies of credenda, miranda, horrenda, and pudenda—all are headed for the museum. The new age will put

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them in the proper place in the new Encyclopaedia Britannica, Atomica, or whatever it may be called.

The politics of the sword cannot solve the new problems; nor the backroom politics of the spoils system in its many forms; nor the politics of arrogance dressed in a little brief authority. The new day is a challenge to the politics of intelligence; to reason and science; to generative and regenerative abilities; to faith in the future; to vision; to indomitable resolution; to unconquerable persistence.

It is at this point that physics and politics meet, and meeting need never part, marching along together toward their common goal. I know we need the physicists and I am convinced that they need us, and will welcome a hand. This is one world, and one universe as well.

If all this seems somewhat mystical or transcendental, a look at the custody and development of the atomic bomb may bring us back to earth again. For the bomb is only a symbol of unparalleled discovery of the resources of nature and eventually of man himself.

Ends of Government. We know that the ends of government are security, order, justice, welfare, freedom. What effect will the new order have upon these goals of the political? If we assume, as I do, that the atomic bomb will outlaw war, not alone on paper, but in living fact, the end of military security as a political problem will tend to decline and even disappear. If there are no armed enemies, the elaborate apparatus designed for the military state has no significance and tends to drop away. The "violence" functions of government would tend to shrivel away, both on the world scene and locally, although not to disappear.

In the atomic age, it would appear that welfare—using the term to designate, in a broader fashion, the production of a great body of human utilities and services—would certainly loom large as one of the objectives of government, as well indeed as of all society. The revolutionary possibilities inherent in Einstein's formula will challenge mankind for release and application in a thousand ways. Liberty and justice will loom larger than before.

Rôle of Politics. It may be hastily concluded that the rôle of government in the atomic age will be larger than ever before. This however, does not follow. In the short run, there may be many

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expansions of governmental activity in many different directions. But in the long run this may not be true, and indeed it is not impossible that government as such may play a more modest part than now. We should not forget that government has few friends. The Communists have always talked about the withering away of the state; the rugged individualists look upon government as a necessary evil at best; the church has always looked down upon the state as the work of the devil primarily; science regards government as ignorant and perhaps obstructive. At the very moment when the state seems to be in full command, its vaunted powers may shrivel and fade, unless it can rise to the heights of the new configurations demanded by the new times.

Undoubtedly many new forms of reciprocal adjustments will be set up in the new environment before us, in the establishment of world order, of industrial equilibrium, of basic standards of existence, of human rights, of adequate accountability for new elements of power in the community. Communism and capitalism, Marx and Mill, do not exhaust the vocabulary or the theoretical and practical possibilities of science, political, economic, or otherwise, natural or unnatural. The whole purpose of strategic controls and either socialization or decentralization should be the higher forms of coördination and adjustment—the emancipation and release of human energies for fuller freedom.

Politics may thus be said to have a double task in the new age: on the one hand, of expanding its functions to bring about basic enterprise, equilibrium, and accountability; and on the other hand, of demobilizing its own controls as rapidly as possible, once the primary objective has been reached, as soldiers are at one time freely expendable and at another rapidly deployable. If this seems puzzling, I may only say we are swiftly coming into a puzzling age. If we can multiply the energy of matter by forty billion under the Einstein formula, what may be done with the gray matter in human brains—given ingenuity, understanding, incentive, and occasion.

To those of the older generation who may think all this is chimerical, I may say that the younger generation understands more quickly the meaning of physical-chemical problems than their elders, and may be found to fit with surprising readiness into the needs of the new day for insight, speed, and execution. I often find conversation with atomic scientists very refreshing. They may not

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have experience in politics, but they have courage, vision, and are not frightened by bugaboos.

I cannot close without special words directed toward some immediate courses of professional action. We need:

1. More intimate coöperation with the atomic scientists, who are looking for more light in political relations. Our needs are mutual, and there are great possibilities in joint action. Many of the atomic scientists have "got religion," so to speak—a sense of social responsibility for what they do; and if they get politics likewise, the world is on its way; or if they meet half-way the technicians in government, the result may prove not only exciting, but enlightening. I suggest the organization of an American Committee on Atomic Energy.

Such a committee might come together for the purpose of considering the broad underlying problems raised by the new developments in atomic energy and its practical applications to human affairs, and for taking such action as seems appropriate from time to time. Such a committee might include scientists and technicians from such organizations as the National Research Council, the AAAS, the Social Science Research Council, the Atomic Scientists, and perhaps others.

I suggest that the American Political Science Association take the initiative in the formation of such an agency and/or coöperate with other groups concerned with the same general objective. We need:

2. Wider spread to all men everywhere of what is now known to political technicians, and this through the multifarious agencies of communication and education now available. This may be called a counsel of perfection, but it could be a counsel of vigorous and instant action, if we were as earnest about peace as we are about war. We need:

3. The recruitment of far larger personnel and far greater resources for the pursuit of new political truth and its practical applications. Our present facilities are pitifully inadequate to cope with the gigantic task that lies before us. The pages of the *Political Science Directory* are very thin when compared with the long lists of trained chemists and physicists—far thinner when the list of those who devote the major part of their time to new truth is reckoned.

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Finally, if all this seems too professional in character, I submit a few proposals or projects for systematic study in an era of the closer union of physics and politics:

1. A new look at human freedom. An analysis of the ways and means of preserving freedom and the consent of the governed in the atomic age.

2. Deliberate and systematic planning, through as serious an effort as in war, to apply atomic and related energies to peace-time purposes—to increase the gains of civilization, while guaranteeing a fair share of these gains to all men everywhere.

3. Analysis of the organization of a World Community and a World Government, and mapping the roads, theoretical and practical, leading thereto.

Evolution points a peaceful way to the new environment we might enter and develop, but the movement itself will be revolutionary, both in thought and in the consequences of thought.

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LABOR PARTICIPATION IN THE OFFICE OF PRICE ADMINISTRATION

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The movement for labor participation in governmental agencies began long before America's entry into World War II, but no significant progress was made until the beginning of the national defense program. Recent economic pressures and the enlarged wartime influence of federal administrative agencies have intensified labor's demand for a more direct voice in the affairs of these agencies.

As early as 1939, when the National Resources Planning Board was created by President Roosevelt, labor manifested its concern over the failure to provide for its representation on the Board. At its 1939 convention, the AFL adopted a resolution[1] providing that "on all War Boards, Labor shall be adequately represented by men appointed from the trade unions themselves." A similar demand for appropriate representation on all important federal and state administrative agencies was made by the 1939 convention of the CIO.[2]

Labor participation in the national defense program had its beginning in May, 1940, when the first labor committee—the Labor Policy Advisory Committee to the National Defense Advisory Council—was established.[3] In the following year (January, 1941), Sidney Hillman was appointed by the President as associate director of the Office of Production Management to share authority with Director-General William S. Knudsen. Since then there have been several experiments in providing representation for organized labor in federal administrative agencies. In one form or another, and with varying success, labor spokesmen have been officially connected with OPM, WPB, WMC, WLB, OWMR, OPA, the State Department, and other agencies.

Speaking broadly, there are two main forms of organization in

* The author is an economist in the Bureau of Labor Statistics. The views expressed in this article, written in December, 1944, are based upon OPA experience with labor participation during the first three years of that agency's existence and do not in any way reflect those of the Bureau.

[1] *Report of Proceedings*, 59th Annual Convention, AFL, Oct., 1939, p. 510.

[2] *Daily Proceedings, Second Constitutional Convention*, CIO, Oct., 1939, p. 235.

[3] The committee was made up of six representatives of the AFL, six of the CIO, and four of the Railroad Brotherhoods.

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which men and women drawn from the ranks of labor are functioning in government, either in the national set-up for the country as a whole or in local areas: (1) those directly employed by a government agency in an official capacity, and (2) those nominated by labor organizations and/or appointed by the President or by the head of the agency to serve on a voluntary committee in a policy-advisory capacity. OPA combines both forms.

The Emergency Price Control Act of January 30, 1942, which created the OPA, made no specific provision for the participation of organized labor. The act authorized the OPA Administrator to "appoint an industry advisory committee, or committees, either national or regional, or both, consisting of such number of representatives of the industry as may be necessary in order to constitute a committee truly representative of the industry, or of the industry in such region, as the case may be." The act also stipulated that the Price Administrator should, "before issuing any regulation or order under the foregoing provisions of this subsection [Sec. 2(a)—"Prices, Rents, and Market and Renting Practices"], so far as practicable, advise and consult with representative members of the industry which will be affected" by any price regulation or order that he may issue. Whether Congress intended to include labor as well as management under this provision is subject to interpretation.[4] The fact that an official committee composed of labor members has been functioning in a policy-advisory capacity, unchallenged, since the summer of 1942 would indicate that the inclusion of labor was implied, or at least not prohibited.

There are conflicting versions as to the origin of the OPA Labor Policy Committee. Plans for participation had been discussed by leaders of the major labor federations ever since the formation of the OPA. In February, 1942, officials of the AFL and the CIO met separately with Administrator Leon Henderson and proposed that organized labor be given representation on a Policy Advisory Committee. No action was taken by Mr. Henderson until early in April,[5] when, without further consultation with labor, he designated

[4] In the OPA quarterly report to Congress for October–December, 1942, the functions of the Labor Policy Committee and the Labor Office were set forth at length and given prominence, and the OPA order creating the LPC was included. Further legislative sanction has been given the LPC through the annual financial appropriation to the Labor Office, one of whose major functions has been to provide administrative service to the LPC.

[5] The fact that Henderson did not consult any of the labor organizations regarding Brooks' appointment was one of the earliest sources of friction.

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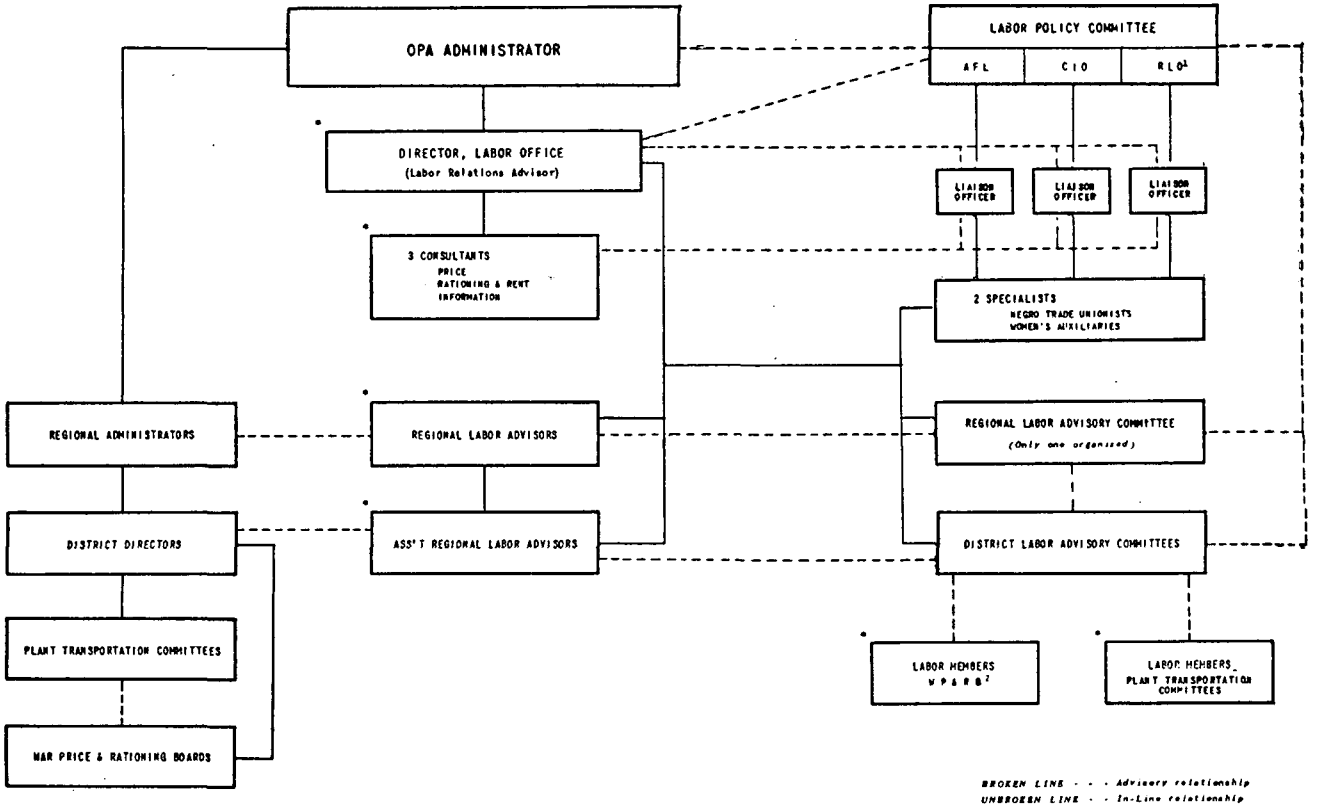
LABOR PARTICIPATION IN OPA

ORGANIZATION CHART



BROKEN LINE - - - Advisory relationship
UNBROKEN LINE ——— In-Line relationship
* . . Nominated by Labor and appointed by OPA
1 . . Railway Labor organisations.
2 . . War Price and Rationing Board

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Robert R. R. Brooks, who had served as consultant on manpower and labor relations problems in the War Production Board, to act as his labor relations adviser.

Two streams of action appear to have been the decisive factors in the establishment of the Committee. On the one hand, labor became concerned over the impact of the tire and gasoline rationing programs[6] on union members, and especially on union business agents.[7] Trade union leaders came to Washington early in May to confer with the OPA regarding modifications in the program to ease the hardships that it imposed on labor organizers. On the other hand, OPA was anxious to enlist mass support for its price and rationing programs, for it was mindful that without the active coöperation of the country's largest organized group of consumers —the twelve million members of organized labor and their families —its program could not succeed.

In the course of the discussions between labor and OPA officials regarding gas and tires, suggestions were made that some plan be devised for frequent consultations between labor and the OPA. Soon after the appointment of Mr. Brooks as Mr. Henderson's labor adviser, these discussions resulted in (1) the establishment of the Labor Office,[8] (2) the appointment of labor liaison officers, and (3) negotiations for the organization of a Labor Policy Committee.[9]

I. THE LABOR OFFICE

The Labor Office was assigned the general function of dealing with labor issues arising within the jurisdiction of the OPA, and all operating divisions were instructed to clear with the Labor Office all matters dealing with labor relations aspects of OPA price control and rationing policies. The order specified that the Labor Office should: (1) recommend to the Administrator, Economic Advisor, and operating officials appropriate treatment of labor problems arising within their respective jurisdictions; (2) provide

[6] Tire rationing began before the OPA came into existence, while gasoline rationing was inaugurated, on a voluntary basis, along the Eastern seaboard in May, 1942. A few months later, gas rationing was made compulsory, and was subsequently extended to the rest of the country.

[7] Travelling from plant to plant in the performance of their official union duties.

[8] OPA Administrative Order No. 29 officially establishing a Labor Office was issued on June 30, 1942.

[9] On May 9, Brooks sent a memorandum to Henderson urging the appointment of labor liaison officers to be attached to the OPA Labor Office, and the formation of a Labor Policy Committee.

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guidance and suggestions to the consumer division on the effective use of labor organizations as channels for consumers' complaints and as a medium for reaching consumers; (3) advise the various operating divisions regarding wages as component factors in production costs and on how to secure adequate labor representation on local price and rationing boards; (4) maintain liaison with other federal agencies influencing or establishing wage rates, represent the OPA at hearings and meetings of federal agencies dealing with wage rates, analyze such data, and represent OPA before other agencies on specific wage issues affecting OPA policy; (5) maintain liaison with the War Manpower Commission and the Labor Production Division of the War Production Board; (6) establish relationships with officials of organized labor groups for the exchange of views and information; (7) hear complaints from organized labor arising as a result of price or rationing policies or operations; and (8) provide administrative assistance for the Administrator's Labor Policy Committee.

II. LABOR LIAISON OFFICERS

In addition to the Director and Assistant Director,[10] the Labor Office has on its staff a principal and an assistant labor liaison officer from each of the three labor groups represented on the Labor Policy Committee. There are also two labor specialists attached to the OPA Labor Office—a Negro specialist serving primarily the Negro labor organizations and labor organizations having a high complement of Negro members, and a women's specialist working with the women's auxiliaries of the various unions. Unlike the principal and assistant liaison officers, both specialists are the unanimous nominees of the three groups, and both work under the direction of the liaison officers.

The appointment of labor liaison officers was the second step in the development of the OPA Labor Office. The letter which Administrator Henderson addressed to the major labor organizations on May 20, 1942, regarding the projected Labor Policy Committee also invited each of them to designate a representative to act as a permanent liaison officer between their organizations and the OPA. "The function of such a liaison officer," Mr. Henderson explained, "would be to keep his organization's members of the

[10] The Director and Assistant Director are chosen by the Administrator (with the approval of the Labor Policy Committee), and are directly responsible to him. They are not necessarily drawn from the ranks of labor.

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Labor Policy Committee continuously advised of all developments in OPA policy or operations of interest to them, to handle problems arising as a result of OPA policies within the jurisdiction of their organization, and to act as a point of communication between the members of my staff and his organization." The liaison officers, Mr. Henderson further indicated, would be full-time salaried employees of the OPA.

At the first meeting of the Labor Policy Committee (June 26, 1942), Mr. Brooks reported that nominations for liaison officers were submitted by the three labor groups. Elaborating on their functions, he said that they were to see to it that the point of view of organized labor is "constantly, forcefully, and adequately presented *through* the Labor Office to the Administrator," and, in turn, to report and interpret the policies of the OPA to their respective organizations.

In a letter to one of the liaison officers,[11] notifying him of his appointment, Mr. Brooks emphasized that although the labor liaison officers would be part of his staff and therefore report to him, they would be allowed wide discretion in doing their job. "I shall feel that they have done their job well," he said, "only if they have faithfully represented the attitudes and desires of the organizations by which they have been nominated."

A discussion of the desirability of putting labor liaison officers on the government pay-roll took place at the first meeting of the Labor Policy Committee. The objection was raised that if liaison officers were on the OPA pay-roll, their "real" identity and "real" responsibility would be transferred from labor to government. One member demanded a "clear" statement that "liaison officers' responsibility is to labor first." Another member asked whether labor could withdraw its liaison representative in case he was found unsatisfactory. Others expressed the fear that the man who goes on the government pay-roll "keeps getting further and further away from the minds of the officers of his own organization."

Mr. Brooks joined this discussion with the statement that labor has a choice between two relationships: either "completely sympathetic labor people" on the government pay-roll "in the expectation that their attitudes will condition and convert government policy," or labor people serving in an advisory relationship. In the first form of participation, exemplified by the labor liaison officers,

[11] June 23, 1942.

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their responsibility is to their "line supervisors, and if they are overruled, they are overruled." Under the second arrangement, the representatives serve without pay, which gives them complete freedom of disagreeing with the Administration and criticizing any of its policies.

The experiment with the labor liaison officers' type of relationship, Mr. Brooks informed the Committee, "has been going on now for more than a year around Washington." This relationship provides for the nomination by labor of a trusted representative to be placed on the government pay-roll with the understanding that his job is to present the point of view of organized labor, but, in the event of a final disagreement between him and his superior, he must abide by his superior's decision or resign.

III. THE LABOR POLICY COMMITTEE

Referring to the discussions which members of his staff had been carrying on with them regarding some form of labor participation in the OPA, Administrator Henderson invited (May, 20 1942) the CIO and the AFL to designate three representatives each, and the Railway Labor Executives Association to name two representatives, to act as members of a Labor Policy Committee. "The need for a closer relationship between the Office of Price Administration and organized labor," the Administrator wrote to William Green (AFL), Phillip Murray (CIO), and J. G. Luhrsen (Railway Labor Organizations), "has for some time been apparent to most of us at the policy-forming level of the OPA. Although I value highly my personal relations with you and hope to see you frequently on matters of mutual interest, I should like to establish an official relationship with the AFL, the CIO, and the Railway Brotherhoods. It is my expectation that such a relationship will be of great value in the formulation of policies which are of concern both to organized labor and the OPA." It was his understanding, Mr. Henderson added, that such a committee would meet with him and ranking members of his staff "at frequent and regular intervals" and be "empowered to speak for their organizations on all matters of policy which are of common concern" to labor and the OPA. The AFL and the CIO promptly accepted Mr. Henderson's invitation. The railway unions, however, asked for equal representation with the two major federations; and the request was granted.

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As finally constituted,[12] the Labor Policy Committee was composed of nine labor members and nine alternates appointed by the Administrator upon the recommendation of the organized labor groups of the country. Though the members receive no compensation from the government, they take oath of office as public officials, so that they may be given access to all information available to other OPA staff members. The LPC is attached directly to the Administrator's office. No official connection exists between it and the Labor Office, except that, as has been indicated, one of the functions of the latter is "to provide administrative assistance for the Administrator's Labor Policy Committee." The Committee also has at its disposal the services of the labor liaison officers, who are members of the Labor Office staff.

How the LPC Operates. Meetings of the Committee have been held bi-weekly, or more often, depending upon the pressure of business. Meetings have been attended frequently by each of the three OPA Administrators,[13] and other members of the administrative staff have been invited from time to time to participate. Consultations among OPA officials and the executive committee or other members of the LPC have been held between meetings as need arose.

Various subcommittees have been established by the Labor Policy Committee to deal with special problems. Membership on such subcommittees has not been restricted to members of the LPC; it has often included labor people with a special knowledge of the subject under consideration. Under LPC practice, any union having a special interest in a particular problem may request the appointment of a subcommittee to deal with that problem. Among the subcommittees organized during the first two years were those on rent control, quality standards, meat, fish, sugar, gasoline, and tire rationing, and labor participation on local price and rationing boards.

Powers and Functions of the LPC. The LPC is a policy-*advising*

[12] Official sanction of the LPC was given in OPA Administrative Order No. 30, issued June 30, 1942.

[13] This was true under Leon Henderson and Chester Bowles. Prentiss Brown frequently absented himself from LPC meetings. In a memorandum to Mr. Brown on the subject of Administrator-LPC relationship, on May 6, 1943, the Committee asked him "if at all possible" to meet with the LPC at least every two weeks, and to meet with its executive committee on alternate weeks. (The executive committee is composed of the chairmen of the three constituent groups.)

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committee with no administrative powers. The administrative order[14] defining the Committee's functions and responsibilities stated that it should advise and make recommendations to the Administrator with respect to the interests of labor in the formulation of major OPA policies and practices in price-control, rent-control, rationing, and related problems.[15] It also was to convey to labor the content of major OPA policies, and be responsible for advising labor organizations on methods by which they might assist in implementing these policies. Each of the three administrators, in turn, has made frequent declarations to the Committee that Congress holds the Administrator accountable for the OPA; final authority for decisions is therefore reserved to him.

At the first meeting of the Labor Policy Committee, which was devoted to a discussion and interpretation of the administrative order defining its functions, responsibilities, and organizational relationships, it was the consensus that Section 2 (of Administrative Order 30) provides a two-way relationship of the Labor Policy Committee—advising and making recommendations to the OPA, and, in turn, informing labor as to the policies, problems, and decisions of the OPA. Speaking at the same meeting of the LPC, Mr. Brooks stated that it was the intention of the OPA "never deliberately to issue any matter of major policy affecting labor without prior consultation with this committee." He also pledged the Labor Office "to do everything from an organizational point of view to watch for the development of policies which do have an impact on labor," in order that there may be prior discussion before any policy is formally and finally set forth. He emphasized, however, that final legal responsibility for decisions on OPA policy still rests with the Administrator.

The principal interests of the Labor Policy Committee, as outlined by Mr. Brooks, consist of: (1) pushing the development of dollars-and-cents retail price controls in food and clothing; (2) insisting that the OPA stand firm on its policy of not employing price increases as the principal technique for restoring low-price textile and clothing production; (3) informing the members of OPA district labor advisory committees and other officers of state

[14] Sec. 2 of Administrative Order No. 30.

[15] OPA executives have been instructed to consult with the LPC or its representatives on all important matters of policy before orders or regulations are issued or revised.

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and local labor organizations of the need for both local and national action to protect the interests of consumers under price, rent, and rationing regulations; (4) formulating policy and procedures for enlisting union members for service on local war price and rationing boards; (5) providing for the legitimate needs, under rationing regulations, of labor representatives who are performing essential war functions; (6) promoting the development of union-management coöperation in meeting war workers' transportation problems.

In a discussion on the relationship between the LPC and the OPA (at a meeting of the Committee on September 10, 1942), Boris Shishkin, chairman of the AFL members, stated that the primary function of the Labor Policy Committee, in an agency whose primary purpose is to control, regulate, and enforce prices and rationing, is really that of liaison between OPA and the consumer.

The LPC minutes of January 6, 1943, reported another discussion of the functions and powers of the Committee, at which Mr. Luhrsen (Railway Labor Organizations) "emphasized the point that any reconstituting of the authority of the LPC to function at a policy level must stem from the White House." At the same meeting, Glenn Atkinson, railway labor liaison officer, complained that the LPC was often faced with a discussion of policy already enacted. He voiced the recurrent demand that questions of OPA policy be referred to the Committee before being put into effect. "Of course," he added, "changes in the status of the Committee would not alter the situation any if the Administrator were unfriendly or lukewarm."

IV. MAJOR PROBLEMS OF THE LPC

Prices, Wages, and Profits. Labor's dual interest—as consumer and as wage-earning producer—gave it a two-fold concern with economic stabilization. The major problem with which the Labor Policy Committee grappled, especially during the early months of its existence, was the relation between price control and the movement of wage rates.

Labor wanted higher wages in order to cope with the cost of living, which, it maintained, had risen considerably even before price ceilings came into effect; furthermore, price controls initially did not extend over many items that figured in the wage-earner's

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budget. Labor was in full agreement with the OPA that price control and wage stabilization[16] should go hand in hand, and that one could not succeed without the other. However, the LPC opposed OPA's price-fixing policy[17] on the ground that this policy in effect fixed wages, since employers could contend that they would not raise wages because of the limitations on prices.[18]

After the adoption of the "Little Steel" formula,[19] in August, 1942, labor felt that it was not getting a fair deal because, it contended, wages were controlled much more effectively than prices. With wages stabilized, one of the two avenues of escape from the high cost of living was closed. Labor therefore demanded stricter enforcement of price control. Its representatives in the OPA became more vigorous in their demands for measures that would plug the loopholes that the Price Control Act seemed to have left employers. That labor's position on the wage-price problem was recognized by the OPA is evident from the following declaration which Mr. Brooks made at a meeting of the LPC (September 10, 1942): " . . . from the standpoint of wage interest, labor will want consultation in advance of the issuance of orders, so that it might suggest changes in them or be prepared for their impact."

The extent to which the interrelationship of prices and wages has figured in the deliberations of the Labor Policy Committee can be estimated from a few pertinent references to the minutes of the Committee's meetings. On July 2, 1942, the LPC discussed the case of workers in the service trades who were then subject to wage reductions due to the fact that all service charges were frozen by OPA's General Maximum Price Regulation[20] as of the highest

[16] It will be recalled that on October 2, 1942, Congress passed the Anti-Inflation Act directing the President to stabilize prices, wages, and salaries on the basis of the levels of September 15, 1942. On October 3, the President issued Executive Order 9250, which formulated policy and organization for stabilizing the cost of living and preventing inflation. He designated the War Labor Board as the agency to administer wage controls, and gave it the necessary jurisdiction and powers over defense industries.

[17] This was during the period before the "Little Steel" formula.

[18] The OPA used wages as an element in the formulation of prices. It took the position that if an employer wants to raise wages he must take them out of profits.

[19] According to the provisions of the formula, wage raises amounting to no more than 15 per cent above wages received on January 1, 1941, could be granted by the War Labor Board, except in certain sub-standard cases.

[20] Issued in April, 1942.

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prices existing in March, 1942. The executive committee was instructed to confer with OPA officials in an effort to find an adjustment that would prevent the disruption of the industry threatened by the then impending disputes arising from resentment of the workers.

On July 8, 1942, Donald H. Wallace, director of the Industrial Materials Price Division, appeared at an LPC meeting to discuss developments in price control since the inception of OPA. In the course of his remarks he said:

". . . freezing the manufacturer to his price-determining method as of March 31 applies to wage rates, with the qualification that if there was an increase in wage rates on or before April 27 he may use those wage rates, even though they didn't go into effect until later. Wage-rate increases not established before April 27 will not be recognized unless they are authorized by the WLB. Unless so authorized, such increases must be absorbed by manufacturers out of profits unless such absorption reduces profits to less than they were under normal prewar conditions."

The minutes of this meeting also record the following discussion:

"Frank Fenton [AFL] commented that such a regulation seemed to suspend collective bargaining and expressed dissatisfaction that labor had not been consulted by the OPA in working out the regulation, that the only problems OPA recognized were those of employers.

"Emil Rieve [CIO] stated that labor was interested in preventing inflation, but did not want an anti-inflation movement to be at labor's expense solely. Since 30 per cent of household necessities are not under ceilings, the cost of living is bound to rise, at least in those commodities.

"Elmer Walker [AFL] expressed dissatisfaction that in the period of weeks when the regulation [General Maximum Price Regulation] was being formulated and meetings held with industry representatives, labor was not consulted. He said that this is the typical OPA policy; labor learns about the orders after they are issued."

At a subsequent meeting (August 5, 1942), the LPC recommended "that Mr. Brooks' [Labor] Office undertake to compile the steps which a labor union may take to avoid the trap set by an employer who states: 'We cannot give you a wage increase because of the terms of the Order' [freezing prices as of March, 1942], although such employer's profits are in excess of a normal pre-war level; and that this procedure be sent to all labor bodies concerned, and particularly the local unions, for their guidance."

The knotty problems created by the interaction of prices, wages,

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and profits continued to agitate the Labor Policy Committee. Almost two years later, at a meeting on March 1, 1944, a subcommittee was instructed to summarize OPA policy on profits and prepare a memorandum to Administrator Bowles urging an amendment to the Emergency Price Control Act making profit control an integral part of price control. The consensus of the Committee on profit-control policy was that the OPA should take a forthright position that profit control is inevitable under price control.

Public Statements. The right to issue public statements criticizing or commenting on policies of the OPA or other agencies was another subject of controversy between the OPA and the LPC. The matter was debated at Committee meetings and discussed with OPA officials. The Committee tended toward the view that it should have the right to issue statements on its own authority. OPA officials, however, disagreed with this position on the ground that it created two possible dangers: (1) it might set up conflict with other agencies in spite of the President's insistence that federal agencies avoid public controversy, and (2) the public might fail to distinguish between OPA itself and the LPC.

At its meeting of September 1, 1943, the LPC debated a motion dealing with policy on public statements, as follows: (1) that the LPC shall make no public statements regarding OPA policy "without prior submission" to the Administrator; (2) that the LPC shall make no public commitments criticizing any other government agency. The vote on the two-fold proposal resulted in a tie, and the question seems to have remained unsettled.

Appointments. Failure of the OPA to consult with the Labor Policy Committee regarding appointments was another source of irritation. An excerpt from the minutes of the Committee (meeting of February 21, 1943) illustrates the views of the LPC members and of the Administration:

"Glenn Atkinson [Railway Labor] reported on a few changes in OPA personnel in the field. He voiced the opinion that it is extremely essential that the Committee be consulted on new appointments to be made in the field staff; he is convinced there are some people in the field who are definitely anti-labor and are not in agreement with the policies of the national office. He suggested a memo to the Administrator asking that the LPC be consulted in the appointment of regional administrators and district directors.

"Boris Shishkin [AFL] moved that a communication be addressed to

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the Administrator advising him that the LPC wishes to be consulted prior to appointments of regional administrators and district directors. (Carried unanimously.)"

At an earlier meeting (August 5, 1942), Mr. Brooks agreed that the LPC should be consulted before appointments of members of his staff are made, but emphasized that the right of appointment was solely his. He excepted the appointment of labor liaison officers, who were chosen by the Administrator from nominations submitted by organized labor. Although the question of consultation with labor on OPA appointments does not seem to have been finally settled, it appears from the record that, in practice, the Administrator did consult with members of the LPC or secured the Committee's advice on many of the important appointments.

V. LABOR PARTICIPATION IN OPA FIELD OFFICES

Labor participation in the OPA has not been limited to the national Labor Policy Committee in Washington; organized labor also has taken part in the price and rationing program throughout the country. The OPA field organization consists of nine regional offices, 93 district offices, and about 5,500 local war price and rationing boards. Efforts were made to arrange for labor participation at each of these three levels. In only one region, however, was an attempt made to organize labor collaboration on a regional level. This was due primarily to the fact that the areas served by regional offices bear no relation to the structure of organized labor, and also because the distances from various points in the region (which often comprises territory in more than one state) made it impractical.

Labor Members of Local Boards. The major volume of OPA's administrative work has been carried on by local war price and rationing boards located in every community in the country. These boards have administered rationing regulations as they directly affected consumers and have assisted in interpreting and enforcing price regulations. Membership on these boards has been voluntary, and members have been drawn from the citizens of the community in which the board was located. They serve without pay. OPA regulations have stipulated that members of local boards should be thoroughly familiar with local attitudes and local problems, that they should not be engaged or financially interested in the selling of commodities, and that they should, as far as possible,

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represent a cross section of the social and economic groups of the community, e.g., industry, labor, agriculture, and various racial and minority groups.

Local war price and rationing boards function by means of a panel system, under which a local board is divided into several groups or panels, each specializing in one phase of board activity. A panel has a minimum of three members and has authority to act for the entire board on any question within the jurisdiction assigned to the panel.

According to a statement in a circular on "Labor and the OPA," issued by the Labor Office on May 1, 1943, "there is authorization in the OPA regulations for the appointment, in industrial communities, of one labor member upon the price panel and upon each rationing panel. The exact number of labor members appointed to any particular board varies, however, depending upon a number of circumstances: (1) the degree of industrialization in the community, (2) the extent of labor organization, and (3) the ability of labor organizations to suggest names of union members having the time and other qualifications necessary for local board work."

When the Office of Price Administration was created, in January, 1942, it did not have a nation-wide organization of its own to administer a nation-wide price and rationing program, nor did it have any practicable means of choosing representative groups for the organization of these local boards. It therefore leaned heavily upon the local civilian defense councils[21] for assistance in the task of nominating local board members and helping to get the OPA program under way. While nominations were made by the defense councils, the responsibility for appointments rested with regional directors and district managers. Board membership was not restricted, and the number was left to the discretion of the district manager, who has been guided primarily by the population of the area to be served.

After a brief experience with State-OCD control, the local boards were federalized in May, 1942. Soon thereafter, OPA instructed its district and local directors to constitute the membership of the boards in such a way as to reflect the social and economic composi-

[21] Civilian defense councils were branches of the Office of Civilian Defense (OCD) established in May, 1941, by an executive order of the President. Among the functions of the OCD was the recruitment of all volunteers for service in government war agencies.

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tion of the communities in which they functioned, "not only so that they would be equitable in their operations but so that they would [also] *appear* equitable in their operations to the people in the communities." By "equitable" was meant the inclusion of the various organized groups of the community.

Special emphasis was put on the recruitment of union people because of the rather slow start due to the none-too-friendly attitude of some civilian defense councils which were at first in control. Opposition to including union people on local boards emanated also from other sources—among them, some regional and local OPA officials.

When the Labor Policy Committee came into existence in June, 1942, and began to get reports from the field, it discovered the existence of this anti-labor sentiment in some localities and decided on a two-fold course of action: to push the OPA into a vigorous policy of local labor participation, even though it meant removing unfriendly officials, and, pending such official action, not to pursue its plans for local labor participation in areas where unfriendly attitudes were most in evidence. For a while, the work of recruiting local labor people was concentrated in industrial states where a minimum of anti-labor sentiment existed.

The OPA, as well as the members of the Labor Policy Committee, was very much concerned with the problem of recruiting members for the local war price and rationing boards and the extension of district labor advisory committees. The early meetings of the Committee were especially replete with discussion and controversy over these subjects. At the second meeting of the LPC (July 2, 1942), the complaint was voiced that local rationing boards have "too many members of vested interests, some of whom are on record as opposed to rationing." To which Mr. Brooks replied that complaints should be made to state directors, who have powers of appointment from nominations submitted to them by local defense councils. Labor organizations, he said, can appeal directly to the state director of the OPA to increase the number of members on the local price and rationing boards.

At a subsequent meeting (July 8, 1942), Margaret Scattergood (AFL), chairman of the subcommittee on local boards, reported that less than ten of the 5,000 local boards had any labor representation. "In very many cases," she said, "the committees are appointed by the anti-labor segment of the community. Even where

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the appointees have the respect of labor, these appointees usually are not in touch with the problems and outlook of labor. Instances are known where anti-labor sentiment on the part of the boards extends to refusing defense workers tires." Miss Scattergood's recommendations in behalf of the subcommittee were: (1) that Mr. Henderson be asked to send a copy of Field Administrative Letter No. 3[22] to each local office of Civilian Defense, calling attention to its provisions covering the appointment of labor and farmer representatives to local war price and rationing boards, and permitting enlargement of the boards to increase such representation; (2) that regional and district directors be asked to see to it that labor representatives are proposed and appointed in every locality, and that the AFL, CIO, railway organizations, and other unions be asked to set up joint committees and appoint persons to serve on them; (3) that in each state such joint committees should see to it that representation is reserved for labor on all local war price and rationing boards throughout the state, and to assist town and city bodies in handling their problems with the state administrator of the OPA; (4) that Mr. Henderson be requested to direct state chiefs to report on action in regard to the appointment of labor members. The Committee approved the report of the subcommittee and also passed a motion asking that co-directors, representing the three major labor groups, be appointed in each state office where labor representation has been denied.

At a later meeting (August 5, 1942), Miss Scattergood reported on the results of a questionnaire which the sub-committee on local rationing boards sent out to determine the number of labor members serving on such boards. She expressed her belief that while the returns were incomplete, there were probably less than fifty boards out of about 5,000 which included a trade-unionist in their membership. "This is particularly serious," she said, "when it is realized that more ration programs will come into effect."

The paucity of labor members on local boards in the first year[23] can be explained in part by the fact that the OPA had been under

[22] Field Administrative Letter No. 3, relating to the nomination of local war price and rationing boards (Sec. B6), issued May 19, 1942, states that "membership of the individual boards should include members from labor and, where appropriate, members from agriculture. In the selection of labor and farm members, the nominating body should consult the recognized state and local organizations of labor and farmers."

[23] By March, 1943, there were about 1,200 union members on local boards.

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the pressure of trying to establish a nation-wide organization in a very short time, and, on that account, relied on OCD bodies to nominate labor members. But the slow growth of local labor representation was not entirely due to those circumstances. Despite the transfer of official control of the local boards from the OCD, regional and district directors (of the OPA) continued to depend largely upon Civilian Defense units for the recruitment of members. This situation explains the Labor Policy Committee's request (August 5, 1942) that Mr. Henderson instruct all regional and state directors to include at least one labor member on all local war price and rationing boards, even if it meant reorganization or expansion of the board.

Whether labor should have representation on rationing boards was never a question on which the OPA differed from the Labor Policy Committee; such division of opinion as existed was limited to the most effective procedure to be pursued. Administrator Henderson was mindful that rationing and price control "cut very deeply into the life of the average worker," that workers constitute a very large portion of the average community, and that, to be effective, the price control and rationing program must include local labor participation.[24] But OPA was interested above all in keeping the price and rationing machinery functioning smoothly. It was for this reason that the OPA was for moving slowly where there was opposition to labor representation among the existing boards or where there were prejudiced officials, lest the job of administration be interfered with.

The Labor Policy Committee continued to manifest its impatience with this official caution. While equally interested in effective administration, it felt that active coöperation of the millions of wage-earning consumers could best be enlisted through giving them a voice in OPA's operations—the sooner the better. The Committee continued to press for a firm policy, and Mr. Brooks felt that this was "a good clean-cut issue on which to have a show-down."

Further elaboration of Henderson's views on local representation was included in a memorandum[25] which he sent to the Labor Policy Committee on August 26, 1942:

[24] Minutes of LPC meeting, August 19, 1942.

[25] Substantially the same attitude was expressed and similar action was taken by Henderson's successors regarding local labor participation.

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"I feel very strongly that there should be members from organized labor on the local war price and rationing boards, and I sincerely intend to expand the number of trade-unionists who are participating in this work.

"I do not feel, however, that this objective can be reached by a uniform directive to our organization. As you know, there are many sections of the country in which there is a substantial bias against organized labor. In many other sections, where this bias is not significant, we nevertheless have on our rationing boards members who are decidedly prejudiced against organized labor. I am not satisfied with this situation and intend to correct it. You will understand, I am sure, that we cannot jeopardize our administrative program by precipitating mass resignation of local board members in various sections of the country. Our program of price control and rent control and rationing must be continued. I cannot, therefore, endanger the administration of our program by a policy statement which would antagonize board members and cause widespread resignations. I can, however, attack this problem in limited areas, one after the other, and within such areas insist that labor be permitted to participate on the rationing boards. This I intend to do."

Mr. Henderson further indicated in his memorandum that he would rather proceed state by state, favorable states first. If then any resignations occurred on his own staff and from the rationing board members, he would risk them.

This declaration from Mr. Henderson did not end the LPC's anxiety over the slowness with which labor was drawn into the local boards. This anxiety was based on reports from various parts of the country that OPA officials were inclined to do nothing about labor participation unless compelled by pressure from the Administrator, coupled with labor demands. The LPC continued to press for vigorous action, and local labor groups continued to voice their protests. As a result, labor membership on local boards was reported (LPC meeting, November 2, 1942) to have grown to 1,600.

Whether labor membership on local boards has constituted "interest" representation or has been merely participation is difficult to say without further evidence, in the form either of minutes of board meetings or of personal observation of meetings. Administrator Bowles' opinion on this subject, included in a letter to the Boston regional director on April 6, 1944, is interesting, if not conclusive:

"It is not OPA policy to permit representation on local war price and rationing boards for special group interests. Each board member is re-

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quired under oath to serve as a representative of the United States Government and as a citizen of his community, administering all regulations with complete impartiality in the interest of the community as a whole.

"Toward this end of balance and impartiality, it is our policy to secure local board members from agriculture, business, housewives, labor, and the professions. Boards so constituted reflect the social and economic make-up of the communities which they serve, and are, therefore, completely democratic."

District Labor Advisory Committees (LAC's). In addition to the trade-unionists serving as volunteer members on local war price and rationing boards, there have been functioning, since March, 1943, separate district labor advisory committees composed entirely of union members nominated by the various labor bodies in the district.[26] These labor advisory committees (LAC's) bear the same relationship to the district director that the Labor Policy Committee in Washington has borne to the Administrator: they are advisory to him and are chosen in consultation with him. The LAC's have acted as a medium for the distribution of information to union members and for the collection of complaints on price or rationing violations which they have turned over to the price panels or rationing panels of the local boards for adjustment.

In a letter to all regional directors and district managers (March 5, 1943), calling on them to invite representatives of organized labor to establish LAC's, Administrator Prentiss Brown made the following declaration on labor participation:

"Widespread consumer support is indispensable to the success of the OPA program. The largest single consumer group in the country is organized labor, representing more than 10 million families. Organized labor is solidly in support of successful price control, rent control, and rationing. The labor movement has the organized means for making its support effective. Provision must be made for actual participation in the OPA program by trade-union members.

"The program of the OPA is now in a period of rapid expansion, requiring the assistance of thousands of volunteer workers and the support and understanding of the general public. Price panels are being set up and price volunteers are being recruited. New rationing panels are being

[26] Membership on the district labor advisory committees is not limited, as in the national committee, to the three major labor groups. Serving on local advisory committees are also members of the United Mine Workers, Brewery Workers, Confederated Unions, Farmers' Union, independent railway unions, etc.

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staffed to undertake the additional burden of work involved in the shoe and food rationing programs. Additional responsibility is being assumed by the OPA in the organization and administration of plant transportation committees. In all of these programs, we must have the help of organized labor.

"Full advantage of labor's help, however, cannot be secured merely by sending general directions from this Office or by long-distance communication between the Washington offices of the labor movement and their affiliated bodies in the states and districts. It is vitally important that working relationships between the OPA and organized labor be established in each OPA district, and that each district manager give his active coöperation to this program."

Mr. Brown suggested that arrangements for the organization of these committees be made through state and local officers of the AFL, CIO, railway labor unions, and other labor bodies. The size of the committees was left to local circumstance, though a minimum of three and a maximum of twelve were recommended. He also outlined a series of specific problems with which the LAC's should concern themselves: (a) recruitment of labor members and volunteer workers for local war price and rationing boards; (b) development of union consumer committees; (c) expansion of the labor-management plant transportation committee program;[27] (d) establishment of regular procedures for handling complaints and exchanging information; and (e) enforcement of OPA regulations. This program was endorsed by the CIO, the AFL, and the railway unions, and their national offices sent communications to their local affiliates asking them to coöperate in carrying it out.

In January, 1945, there were about 5,500 local war price and rationing boards throughout the country, including Hawaii, Alaska, and Puerto Rico, with a membership close to 105,000, of whom

[27] To promote gas and tire conservation and ride-sharing, OPA regulations required that application for supplemental gas rations and tires, in plants employing 100 or more workers in war industries, be certified by a plant transportation committee composed of management and labor representatives. Approximately 30,000 such committees were established.

According to Robert R. R. Brooks, this section of the mileage rationing regulations was "based on the common sense precepts of industrial democracy: (a) necessary restraints are more likely to be enforceable when those who are restrained share in the enforcement; (b) both labor and management representatives have channels of communication with their constituencies which should be utilized in explaining and developing the conservation program; (c) both labor and management have detailed knowledge of individual situations which is of value in making mileage rationing effective."

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6,000 were trade unionists. At the same time, there were also 1,600 union members on 93 district labor advisory committees. In addition to district and local participation, labor was represented on plant transportation committees. Of 120,000 persons serving on the 40,000 such committees, 60,000 were recruited from trade unions.

VI. THEORY UNDERLYING LABOR PARTICIPATION

The nature and scope of the Labor Policy Committee's powers and functions have been recurrent themes at LPC meetings since its organization. Many of the early meetings were occupied with discussions of such questions as: (1) Are we a policy or an advisory committee?, and (2) Is the LPC a form of labor participation or is it labor representation?

Policy or Advisory? There have been two opposing views from the very beginning as to whether the Labor Policy Committee should have policy-making powers or be limited to an advisory rôle. The labor members of the Committee, as well as labor generally, have held the view that labor should have an official voice in making policy, should share the responsibility for official policy-making with the agency in question. The OPA took the position that the Labor Policy Committee was to *advise* the Administrator in matters of OPA policy, *but that he did not have to follow the advice;* that the responsibility for final decisions, according to law, were solely his; and that he was not legally free to share those powers with any one. Furthermore, it was the official view that the rôle of representatives of special "interest" groups in governmental administrative agencies should be to serve only in an *advisory*, and not in a *policy-forming*, capacity.

Labor's objection to the Administrator's view was based on the contention that it made the labor committee a mere debating society. Under this conception, the committee of labor could debate at length and render advice which did not have to be followed by anybody. The matter is still being discussed.

Participation or Representation? There has been perhaps even greater division of opinion on the question of labor participation versus labor representation. (The OPA labor members, it should be recalled, were nominated by the labor organizations and officially appointed by the Administrator.)

The OPA developed to a high degree the technique of consulta-

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tion with representatives of a variety of groups affected by price and rent control and rationing programs. The establishment of the LPC was one of the first moves in this direction. It was accompanied and followed by the establishment of advisory committees representing a variety of other interests, i.e., agriculture, trade and commerce, and consumers.[28] The OPA position was that, although it would consult as extensively as time and conditions permitted, the powers of final decision would always be reserved to the Administrator and his deputies.[29]

The LPC in relation to policy-making was discussed at length at a meeting of the Committee on July 17, 1942. Joseph Curran [CIO], who had just returned from England, reported on British Labor's experiences with participation in governmental war agencies. The following excerpts from the discussion serve to emphasize the rôle of the OPA labor committee in comparison with its English counterpart:

"Hoyt Haddock [CIO]: Mr. Curran tells us that in England the Labor Policy Committee on price control and rationing establishes policy. If that policy is not put into effect by the minister, it is brought back to that policy committee and is gone over with them, and they are shown where it cannot be put into effect, and because of facts that are developed, they themselves change that policy to suit the facts. Well, I am interested in that in this committee. To date, we have not been in a position to know where we are going on that because of a lack of direct pronouncement from you [Henderson] on this question . . . when we make decisions, we would like to see them carried down into the field. For instance, a very good example is the gasoline rationing regulation for union officials and organizers, which was adopted. Policy was established in this committee on it. I understand that you [Henderson] accepted that policy, but it has not been handed down in the field yet.

"Herbert Dawson [CIO]: How do you find that was handled in England?

"Curran [CIO]: I find labor represented from the top right to the bottom in policy as well as administration.

"Haddock: . . . if labor is going to accept the responsibility of making price control and rationing effective, and in my opinion it has to accept a responsibility if it is going to be effective, labor has to have some responsibility with respect to those programs which are going to carry

[28] The LPC has thus occupied a position analogous to the other advisory groups of the OPA.

[29] Though full consultation with labor was favored by the OPA, it often fell down in the mechanics of carrying it out.

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down . . . my understanding of the situation as you enunciated it at our first meeting here was that you [speaking to Henderson] would be very glad to listen to labor, but you would pretty well act the way you felt even if labor didn't agree with it. My recollection is that you will probably listen to labor and management and probably make up your mind, but when a question is up which vitally affects labor, so far as I am concerned, I would like to see that question brought before the LPC. I would not like to see the Administrator decide on a matter of policy until the LPC made its position known on the question. Again, I want to point out that labor is progressive; labor can be convinced if it is wrong, when it is wrong.

"Henderson: If I hadn't thought that, you don't think I would have run the risk with you babies of having a committee around do you? . . . I can't, as I told you before, delegate authority, unless it is to a governmental instrumentality, and then only in narrow limits. What I think we can do when something predominantly affects labor rather than management or anyone else, is to give the greatest weight to what labor wants done and what it suggests."

Perhaps the Administration's attitude toward the Labor Policy Committee can best be characterized by the remarks of the Administrator at an earlier meeting of the Committee. He was present when a letter to him regarding the recruitment of labor people on local war price and rationing boards was read. He said, among other things:

" . . . I think there are matters that we want to get from you in which your judgment and your touch with people is superior, but frankly, for a group skilled in labor policy and brought together for that purpose to tell me, with as much experience in accounting as I have, and as much price-fixing as I have, that a method I have chosen is unsound, and impossible of effective administration, is a rather weak way to argue."

Division of Opinion Regarding Labor Participation. Sharp division of opinion exists on the question of labor participation in government agencies. There is by no means unanimity of agreement among its advocates. Nor is there complete agreement among those who oppose it. Even labor itself is divided on some aspects of participation. However, in the maze of opinion there are discernible two divergent schools of thought. Some of the leading arguments against direct labor representation in government administrative agencies may be summarized as follows: (1) Direct "interest" representation is undesirable and potentially harmful. Wage-earners are represent-

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ed by government in the same way as farmers, business, and other groups. If labor groups are given special (direct) representation, other groups will also demand direct representation. (2). If business representation is bad, would the addition of labor representation make it any better? (3). Conflicts between employer and employee representatives would develop internal feuds and hamper the agency's work. (4) Group representation would create indecision and result in inaction. (5) Labor representation would deprive labor organizations of freedom of action and would subject the representatives to a dual allegiance.

To meet the criticism that the existing advisory committees were not functioning satisfactorily, the suggestion was made that "the remedy is the development of more adequate consultative procedures" instead of direct interest representation, which "tends in the direction of the corporative state."[30]

Those who advocate labor participation contend that: (1) Labor constitutes the largest group of organized consumers. As such, it should be given representation along with other groups in agencies where the delegation of power is complete and an emergency exists. (2) Other groups already have their interests represented. Government agencies have an over-abundance of men drawn from management. The policy of participation is not, therefore, one of special representation for a special interest, but is part of a broader policy of attempting to secure the balanced participation by all community groups. Without labor, these interests would be "in the saddle" and exert undue influence on governmental policies. (3) Labor brings to the operation of any agency a familiarity and understanding of habits, attitudes, and sympathies which are conspicuously absent, as a rule, in most government agencies. The labor representative's training and experience equip him to take community attitudes, particularly in such agencies as the OPA. (4) Freedom of criticism and freedom of action of labor representatives depend upon the help given them by the agency, the attitude of the administrator, and the coöperation of the staff. In the OPA, the Labor Policy Committee is free, and has had occasion, to make its views

[30] See Kendrick Lee, *Labor in Government*, p. 265. Regarding the fear of a "corporative" state, Robert R. R. Brooks said to this writer: "It is not form that determines the corporative state, but *locus* of power; as long as unions remain free from state control, there is no such danger." According to Avery Leiserson ("A Study in Representation Interests"), " . . . in the prevailing current of thought in public administration . . . the overwhelming trend of opinion favors the elimination of explicit interest representation in all forms but that of advice."

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public, even in cases where it differed with the administration.[31] (5) The record of the OPA Labor Policy Committee indicates that its function of advising the administration regarding labor's views on OPA policies in no way conflicted with its primary duty of representing labor's interests.

VII. EVALUATION AND CONCLUSIONS

The OPA experiment in labor relations has been productive of better mutual understanding; labor officials have gained a familiarity with the complex problems and policies involved in price control and rationing, while OPA officials have learned much about the problems and views of labor. From the point of view of labor, the most valuable achievement of the Labor Policy Committee of the OPA has been the opportunity it has afforded organized labor to represent consumers' interests within the OPA. It has played a highly significant rôle in counteracting the pressures for price increases and has exerted its influence for more effective controls. To the labor leaders, the experience in OPA was especially revealing; they discovered the enormous extent of the consumer interests of their members.

The active participation of about 80,000 union members[32]—in local war price and rationing boards, in district labor advisory committees, and in plant transportation committees—is in itself significant; it has given trade-unions an invaluable opportunity to share in the experiences of community life. The participation of representatives of the country's 14,000,000 organized workers has helped to make the OPA program more effective by helping to make OPA regulations more understandable and more acceptable.[33]

Owing to the increasingly greater demands on union officials' time resulting from the pressures of war, there has been considerable difficulty in finding enough qualified and available trade-unionists who could devote the time—quite frequently an enormous amount of time is necessary—to government agencies away from their union jobs. In this respect, it seems, however, that the OPA experience has been far more satisfactory than that of some

[31] An example of the freedom of criticism exercised by the LPC is its public statement of July 30, 1944, charging that the OPA canned fruit and vegetable-grading regulations "leave consumers at the mercy of unscrupulous canners who would overcharge their customers."

[32] As of December, 1944.

[33] As estimated by Florence Peterson, Chief of Industrial Relations Division, Bureau of Labor Statistics (*American Labor Unions*, p. 56).

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other agencies. Perhaps this greater success is due in a measure to the all-pervading influence that OPA policies have exerted on the daily lives of the union membership.

Another difficulty that has militated against the effectiveness of the Labor Policy Committee has been that no matter how vigorously it sought to protect the interests of the consumer, it has been hampered by the legal limitations of OPA itself. Effective enforcement is, after all, largely contingent on adequate funds and sufficient powers, both of which derive from Congress. Further limitations on OPA actions and policies have resulted from the fact that in large areas of its activities it has been dependent for sanction upon other governmental agencies, such as the War Production Board, the War Food Administration, and the Office of Economic Stabilization.

In conclusion, we present the judgments of a prominent OPA official and of a well known labor leader who was among the first to advocate labor participation. The OPA official summarized the experience with labor participation thus: "I think the whole experience can perhaps be summed up by saying that the LPC eventually became the 'consumer-conscience' of the OPA. Like the conscience of an individual, it was often extremely unpleasant to have around, yet its existence exercised a salutary effect whenever the OPA was tempted to give way to strong producer pressures for higher prices."

The labor leader said that while he recognizes only too well that the existing status of labor participation in the goverment "is wholly inadequate, and is utterly below the level of labor's stake in the war," it is his belief that even the present form and extent of participation represents "a measure of industrial democracy in operation." This experience," he added, "goes to the very heart of democratic laws."

And finally, before we can decide what form of participation is most desirable, we must answer the question: What form has been most effective? It may be that the war-time experience will have demonstrated that there is no one best form, that the best form is that which is best suited to the structure and function of the particular agency. Certainly it is true that a pattern of labor participation is being fashioned on the anvil of day-to-day experience. The results bear examination; for the concept of functional participation may prove a useful device for making representative democracy work better.

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ANDREAS FRICIUS MODREVIUS—A POLISH POLITICAL THEORIST OF THE SIXTEENTH CENTURY

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I

It has been said that political thought of the sixteenth century can be classified into two types[1]—an attempt to find a juristic basis for the *raison d'état* exemplified in the work of Bodin, and the antithetic point of view found in the *Vindiciae* and concerned with the establishment of abstract right.

There is, however, yet another trend of political thought observable at the time—a political theory which combines the two trends of political thought mentioned above, but which goes beyond the "long research into the terms of political obedience,"[2] in its attempt at a synthetic view of the state and society. And one of the best expressions of this way of thinking is found in the writings of Andreas Fricius Modrevius (Andrzej Frycz Modrzewski), the most notable political author of sixteenth-century Poland.

The great significance of Fricius' writings to a modern student lies largely in the way in which they mirror the thought of the Renaissance and the Reformation, and in the successful combination that Fricius achieves of a predominantly Aristotelian analysis of the state with a Christian idealism which he imparts to his discussion of a "good state" and its ends. His ability to combine the best features of the ancient political thought and to adapt them to the realities of sixteenth-century Europe brought Fricius to the attention of such writers as Bodin, Althusius, and Grotius.

II

Fricius was a reformer writing mainly with the intent of effecting legal and ecclesiastical changes in contemporary Poland. To appreciate his writings, one must know something of the intellectual and political atmosphere of his country at the time. To a foreign observer, the Poland of that day appeared a haven of political liberty and, what was more important in a Europe torn by religious

[1] E.g., by Laski in his introduction to the *Vindiciae contra Tyrannos*, p. 45.
[2] Laski, *op. cit.*, p. 4.

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strife, of religious tolerance. The Huguenots were to see in Poland the ideal constitutional monarchy (e.g., in the *Vindiciae*) in which the monarch was limited by laws while members of the Senate and the Diet played the part of the *ephors* or guardians of laws. Even the Huguenots were unable to approve of what was at the time an extreme of religious (which was then almost synonymous with political) tolerance, and Beza severely attacked Poland for tolerating Anabaptists and Socinians.[3]

There were at the same time foreign observers who acutely detected weaknesses in the system under which all these liberties were possible. They saw the almost insensible transition of Poland from a monarchy to what amounted to an oligarchy—exercised, to be sure, by an unusually large group of nobility. Papal nuncio Lippomano, in his reports from Poland, pointed out the depressed status of the peasants, who amounted to little more than mere slaves of their lords. The same note was repeated by other observers. Bodin noticed the fantastic disparity in the penalty for homicide depending on the social status of the guilty—an abuse which Fricius had fought all his life. No less than by the social and legal defects of the system was Bodin displeased by the gradual weakening of the royal power and the growing inefficiency of the central organs of the state.[4] The outstanding advocate of a centralized state could see only disaster in the progressive disintegration of the central authority in Poland, while most European countries were moving in the opposite direction. The future developments in Poland were to justify Bodin's warnings.

These few general observations provide only a most sketchy view of the society in which Fricius lived. His life's span (1503–72) embraces the era of a significant transformation in Poland: from orthodox Catholicism, the country moved towards Reformation. After a few years in which the issue was in doubt, counter-reformation succeeded, beginning with the Council of Trent, in solidifying the position of Catholicism in Poland. Politically, the importance of the Diet was growing, and while the "liberum veto" and similar abuses belong to the next century, the influence of the gentry was slowly gaining ascendancy, as compared with the position of the king and the magnates. At first, both their class interest and the

[3] Kot, *Rzeczypospolita w Literaturze Politycznej Zachodu*, p. 33.
[4] Kot, *op. cit.*, pp. 62–66.

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news from the West motivated the masses of the gentry to assume a position hostile to the privileged status of the clergy. It is a familiar strain which we recognize in the resolution of a Dietine in 1534: "We request that priests should not restrain us from printing in Polish, histories, chronicles, our laws, and other matters and especially the Bible. . . . In this we see a great injustice done by priests. For every language has its own literature, but the priests would have us dumb."[5] The growing protest and somewhat incoherent plea for change lacked the sense of direction and leadership which similar movements found in the West in the great figures of the Reformation. There were, however, a number of pamphleteers and writers, often inspired by a group of magnates, or even by the royal chancery, who wrote with the idea of influencing the wide circles of the gentry, and whose activity was to become more intense shortly before and during the periodical Diets.

III

Fricius began his literary career in such a capacity. His debut was preceded by a period of apprenticeship typical of a humanist of the period. Son of a poor nobleman, he studied at the University of Cracow and then joined the chancery of Archbishop Taski. It was through Fricius' friendship with the Primate's nephew, Jan Taski, famous later for his organizing ability and zeal on behalf of the Reformation, that he became acquainted with the ideas of Erasmus, Melanchton, and Luther. The best testimony to Fricius' intellectual development at this early stage is the statement he made many years later:

"And as I carefully pursued the new books it was unavoidable that the old beliefs should weaken and new ones take root. However, I never embraced the new opinions to the point of professing them or living according to their tenets, as I live in general according to the inherited customs. I remain a citizen of the Commonwealth, though I cannot approve of many of its laws, and the one concerning penalty for homicide I have attacked publicly and in writing; similarly I have not ceased being a member of the Church, though I cannot embrace its rites or teachings in their entirety."[6]

It is a curiously modern statement, rather untypical of the six-

[5] Kolankowski, *Zygmunt August*, p. 53.
[6] Quoted by Kot, *Andrzej Frycz Modrzewski*, p. 177.

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teenth century, but characteristic of the whole activity of Fricius, who always pleaded for reform and compromise rather than for a complete break with the past and revolution.

His humanistic education was continued abroad, especially in Germany, where Fricius became a close friend of Melancthon, at whose house he lived for a while. Throughout his life, trips abroad and contacts with foreign humanists never ceased.

Fricius' first writings concerned the issue which was at the center of his reforming activity—the effort to amend the law concerning homicide. Under the law of 1496, a nobleman killing a member of his own class suffered imprisonment and a very heavy fine; but only a relatively light fine awaited a nobleman who killed a plebeian, while a peasant found guilty of slaying a member of the gentry was invariably punished by death, and heavy penalties were sometimes applied to inhabitants of the culprit's village. Besides the direct barbarity of its provisions, the law symbolized the growing political disparity between the nobility and the rest of the nation. It was with the intention of persuading the coming Diet to modify the law that Fricius—encouraged by the royal chancery—wrote *Lascius sive de Poena Homicidi*.[7] The work was followed by two similar appeals; but their plea, though supported by royal influence and by an enlightened group of nobles, had but little influence on successive diets. The class—or more properly the "estate"—spirit was stronger. Fricius clashed with it on yet another issue. The Diet of 1538 forbade the townspeople to own landed property and ordered the ones already in possession of estates to dispose of them within four years. In a tract published in 1542, Fricius assailed the law which, understandably, had aroused indignation in the towns and cities.

In yet another chapter of his publicist activity, Fricius revealed the theoretical part of his political views and hinted at the ideas which were to be more fully presented later in his principal work. Along with a group of humanists, Fricius hoped for a Council which would heal the breach in the Church by removing various abuses, and especially by curbing the arbitrary authority of Rome. It pained him to see that most of the Polish princes of the Church were indifferent to the Council about to gather in Trent, and unwilling to attend the epochal synod. To fight this indifference, he wrote

[7] Kot, *op. cit.*, pp. 53–57.

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the *Oration about Sending Envoys to the Christian Council*. His arguments there remind one of the conciliar theorists of the late Middle Ages, but they are not free from the undertones characteristic of the more radical branches of Protestantism. Yet the work is written from the point of view of a reformer and not an enemy of the Church. The most interesting part is the one dealing with the process through which envoys to the General Council should be elected. The election ought to be a matter of concern not only for the clergy, but for all the faithful, for the whole church community. "Each parish should be acquainted with the issues to be discussed at the Council, everybody should be allowed—no matter whether he be in orders or a layman—to speak with full freedom."[8] Fricius stresses the importance of the fullest freedom of discussion. We must accept as the basis of deliberations that the Church—or rather the people speaking for the Church—can fall into error. The free discussion having taken place at diocesan councils, they are to send delegates to the provincial council, where delegates to the General Council will be elected and their instructions determined.

IV

The preceding activity was but a prelude to the main work of Fricius. In 1551, he published *Commentoriorium de Republica Emendanda Libri Quinque*, but the work contained as yet only three books about customs, laws, and war. During the following years the work grew as Fricius added the most controversial part—the book about the Church, and another about education. The complete work was printed in 1554 at Basel. The author's reason for writing the book may be seen in his opening declaration that he was afraid that various defects of the constitution would lead to its destruction, and that as a royal secretary he had taken the oath "not to conceal from the King or the magistrates either harmful or useful matters affecting the Commonwealth."[9] And when Fricius became the target of attacks due to his criticism of privileges of the nobility and the Church, and when he was threatened with the loss of his means of support, he could answer:

"Is it then a crime if I criticize my beloved country so that my community—and I am a part of it as well as the others—would awaken and

[8] Kot, *op. cit.*, p. 75. All references to Kot, unless otherwise specified, are to *Andrzej Frycz Modrzewski*.

[9] Quoted in Kot, *op. cit.*, p. 97.

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avoid the injustices which (presently) disfigure it. I do not slander anybody, but only point out certain errors, the roots of which are in the activity of men neglectful of their duty—and I do not doubt that virtuous and moderate men will take my side in trying to suppress the national defects."[10]

But the tide of the counter-reformation was rising, and Fricius saw his old friend and protector, Bishop (later Cardinal) Hosius leading the campaign against him. The writer's tone was becoming bitter. In 1557 he addressed the nobility, which refused to heed his appeal:

"No state was ever conquered before being weakened by internal friction. Beware then that by proceeding with obstinacy you do not hasten your own perdition and that of the Commonwealth. Due to a turn of events, the Commonwealth has fallen under the domination of the nobles, and they, whatever they do for their own interest, claim that the interest of the Commonwealth is at stake, as if the national welfare were dependent on the will of a small group and not on the prosperity of the [whole] community."[11]

It is characteristic of *The Way to Improve the Commonwealth* that it combines political insight with a strong dose of what today would be called social consciousness, as seen in the statement above.

The phraseology of the opening chapters of the work is strongly Aristotelian. "The state [Fricius uses the expression *res publica*, in Polish *Rzeczpospolita*] is a human association orderly assembled composed of neighbors, its end being to provide a good and happy life."[12] And further on the state and society are represented as existing "in order that all the citizens should live happily (that is, as Cicero teaches) honestly and well, so that they would multiply in dignity and prosperity, that each should enjoy and use his property, that each should be protected from injustice and assault, for all these things are provided for in every city and every state."

This commonplace of ancient and medieval political theories is but a prelude to Fricius' exposition of his theory of the Polish constitution and his views on royal power in general:

"Since the Polish kings do not inherit the throne but are elected by all the estates, they should not use their royal power to impose by their

[10] Quoted in *ibid.*, pp. 134–135. [11] Kot, *op. cit.*, p. 165.

[12] Andrzej Frycz Modrzewski, *O Naprawie Rzeczpospolitej Z Przektadu Cyprjana Bazylika*, p. 1.

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will alone permanent laws or taxes. . . . For everything they [the kings] do is either with the consent of all the estates, or according to the intention of law, which is a much better arrangement than the one had by the nations whose kings impose taxes and initiate wars of their own will, which though it may be done for the good of the state, yet because it is not regulated by law may easily lead to hideous tyranny in which the king does what he pleases, whereas royal power should obey customs and laws of the land and govern according to their intent."[13]

In fact, Fricius' views as to the actual practice in Poland of his time are a bit inexact. The "estates" of which he speaks were for the purpose of legislating largely reduced to one, the nobility, as the towns had ceased to participate in the Diets. The actual boundaries of the royal power were not as yet defined. But his ideal state is clearly indicated. It is a monarchy regulated by laws. The ruler not only occupies an exalted position (his power, though he is elected, comes from God), but he is also the supreme arbiter among various estates, with the duty of securing harmony among them and seeing to it that no estate or part of the nation secures undue power or advantage over the other sections of the community. This insistence on the need of social harmony and of balancing of various class interests is perhaps the most notable contribution of Fricius to contemporary political literature. Nor does he hesitate to implement his postulates by recommending specific steps in the judicial and financial fields. He demands emphatically that all citizens should be equal before the law regardless of their political or social position. And if there should be inequality of punishment, then the differentiation ought to be such as to discourage, not to encourage, crime. And therefore the nobility and the magistrates should suffer more heavily for committing a crime than the peasants and the poor.[14] This was for the times a truly revolutionary idea, and as such it was assailed by Bodin: ". . . et meme André Ricce [sic!] Polonois dit que c'est grand injustice d'avoir esgard en jugement aux nobles ou roturiers, pauvres ou riches, bourgeois ou étrangers, et que le peine doit être égale à tous, qui est bien loin de corriger les abus de la République comme il pretend."[15]

And yet Fricius is anything but a revolutionary or an uncritical believer in the people. He was for a radical legal reform, including uprooting of such abuses as the death penalty for theft and rela-

[13] Andrzej Frycz Modrzewski, *op. cit.*, pp. 22–23. [14] *Ibid.*, p. 67.
[15] Quoted in Jean Moreau-Reibel, *Jean Bodin et le Droit Public*, p. 235.

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tively mild punishment for murder, but he wanted to entrust this reform to a select group of experts, for otherwise class interests would play their rôle "and the mass of the people, unlearned, unintelligent, and weak, can be easily made to tolerate any conditions."[16] National welfare is always before his eyes. And it is this consideration which prompts him to advocate a unified system of written laws: "Let there be—for the whole nation—a single system of laws, and these laws should count for more than any royal ordinances."[17]

Perhaps the most striking example of the writer's willingness to subordinate all other considerations to a broadly conceived reason of state, and to base the latter on an equal distribution of burdens among various classes of society, is found in his scheme of taxation. "Strange are the councils of our nation," he wrote. "Every year we have a Diet accompanied by great assemblies of all estates and great costs, not to mention time-consuming and expensive feasts, and in the end a new tax is imposed upon the townspeople and peasants."[18] Fricius' own proposals are for an orderly and equitable system of taxation. All the landowners, including the king and the beneficed clergy, should contribute half of their income during the first year, and from then on one-twentieth. The peasants should be excused from all taxation, as they pay rent to the nobility. The townsmen who have land in leasehold ought to be taxed very lightly, with the landless merchants paying taxes only on their profits and not according to the total volume of business. Besides its purely financial and administrative features, the plan is appealing for its warm sympathy with the lot of the underprivileged: the serfdom of a peasant who pays a tax in addition to paying and working for his lord and priest. The instability and other hazards of the life of the journeying artisan are vividly depicted in a plea to free them, at least, from the state-imposed burdens, " . . . for we all are like passengers in one boat—the Commonwealth; when one ails, the others cannot remain well."[19] To the greatest political thinker of the West, Fricius' ideas appeared as a dangerous absurdity. Bodin, as Professor Kot notes, did not extend his theory of sovereignty to matters of taxation. The notion of burdening the upper classes with taxes was repugnant to him, and the mere thought of extensive and systematic taxation was considered to threaten the foundations of the state: "For what could be more dangerous, more likely to en-

[16] Andrzej Frycz Modrzewski, *op. cit.*, p. 87.
[17] *Ibid.*, pp. 86–87. [18] *Ibid.*, p. 109. [19] *Ibid.*, p. 130.

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flame the minds of the populace, than a sudden imposition of such enormous taxes?"[20]

Fricius' solicitude for the lower classes was largely the product of the rethinking of Christian ethics which accompanied the Reformation. Writing of the serf-like status of the peasants, and condemning the attempts of the nobility to bind their tenants to the soil, Fricius observes that neither the Protestant Germans nor the Mohammedans take their co-believers for slaves: "And we who hold the true faith, we are not ashamed to keep as slaves the people of our faith."[21] The same religious background is responsible for yet another aspect of Fricius' philosophy. In his travels abroad he noticed and commended puritanic habits of some Protestant sects. Even his main work is filled with numerous pleas for a greater severity of morals and the demand that the state itself should take part in curbing dissolute customs and luxury. ". . . Nor should excessive feasts or banquets be tolerated. . . . All the idlers and drunkards ought to be punished."[22] The same censure is extended to dances and theatricals, and indeed he would revive the office of the Roman censor to watch over morals.

There are many sidelights of Fricius' thought, testifying to the manner in which his mind registered the impact of new ideas generated by the Renaissance and the Reformation. Two hundred years before Poland—or any other European country—organized a ministry of education, Fricius had urged state control and care for schools, and had asserted that even a modest school-teacher should be considered as an honored and valuable servant of the Commonwealth.[23] A large part of ecclesiastical income should be devoted to education alone, and only scholars should attain the highest positions in the Church, regardless of whether noblemen or not.

Fricius does not neglect the wider international aspect of politics. We are reminded that Grotius was a fervent reader of Fricius' works[24] when we read in *De Republica Emendanda* a categorical condemnation of aggressive wars, and of the rulers who seek glory and territorial expansion in war, unmindful of the lives of their subjects.[25]

[20] Kot, *Rzeczypospolita Polska w Literaturze Zachodu*, p. 66.
[21] Andrzej Frycz Modrzewski, *op. cit.*, p. 52.
[22] *Ibid.*, p. 41. [23] *Ibid.*, pp. 121 and 130.
[24] Kot, *The Polish State and Political Literature of the West*, p. 47.
[25] Andrzej Frycz Modrzewski, *op. cit.*, p. 96.

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After *De Republica Emendanda*, Fricius' life became largely a series of disputes with the Church hierarchy, and his literary activity consisted of writing theological tracts. It is, however, his great political work that remains Fricius' chief claim to fame. It is one of the few arguments raised at that time for a constitutional and parliamentary state in which not only the political but also the social and economic structure should be such as to give to each class-estate an equitable share of the benefits of an organized community. It is a plea, furthermore, for a state where there is great personal freedom and religious tolerance (judged by the standards of the times), but where the community does not abdicate its rôle of influencing the individual, through education and laws, toward the desirable goal. *De Republica Emendanda* is a plan for an enlightened and progressive state in which neither the ideals nor the realities of politics are neglected.

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AMERICAN GOVERNMENT AND POLITICS

THE GOVERNMENT CORPORATION CONTROL ACT OF 1945

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The government corporation, by reason of its use as an instrument for administering commercial and emergency programs in two world wars and one depression, has become a familiar device in American government. A recent census turned up some 115 federal corporate agencies, with over 20 billion dollars in assets.[1] Admittedly, not all of these were government corporations "in the strictest sense of the term," and some have since been liquidated with the ending of the war. More than half of the total of 115, moreover, are attributable to the fact that the federal land banks, intermediate credit banks, banks for coöperatives, production-credit corporations, and home loan banks are organized on a regional basis, with twelve individual corporations in each category. Nevertheless, the list is an impressive one, including such permanent major federal agencies as the Reconstruction Finance Corporation, the Tennessee Valley Authority, the Panama Railroad Company, the Inland Waterways Corporation, the Export-Import Bank, the Federal Deposit Insurance Corporation, the Federal Public Housing Authority, and the Farm Credit Administration system.

In comparison with regular government departments, corporate agencies have been characterized by a considerable flexibility and freedom in administration, particularly with respect to personnel and fiscal management, and by a substantial measure of independence from regular executive and legislative controls over policy. It is precisely because of these factors that the corporation has been so well adapted to the administering of commercial and emergency services. The status of corporations as agencies separate and distinct, administratively and financially and legally, from the government itself has facilitated their adoption of commercial methods of accounting and financing, avoidance of political controls, and utilization of regular procedures of business management.

In recent years, however, the theory and practice of corporate administrative freedom have suffered a sharp challenge. While the reaction has been manifested principally in Congress, some disenchantment with the government corporation has also been apparent in administrative circles.[2] A principal contributing factor in this development has been

[1] General Accounting Office, *Reference Manual of Government Corporations, as of June 30, 1945*, Senate Doc. 86, 79th Cong., 1st Sess. (1945).

[2] See Paul H. Appleby, *Big Democracy* (1945), pp. 95–96.

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over-use of the corporate device. Instead of employing the corporate form only in clear-cut cases of public enterprises engaged in the conduct of financially self-supporting programs, corporate status has been conferred on a number of activities simply because they were going to do some buying or selling, or because they were administering an urgent program, or because their administrators wanted freedom from regular governmental controls, or because it was easier to get a new agency set up as a corporation under state incorporation laws than to secure action by Congress.

Under these conditions, the proponents of corporate autonomy have increasingly been put on the defensive by forces pressing for the standardization of governmental administrative methods. By executive order in 1938,[3] and by the Ramspeck Act of 1940, every government corporation except the T.V.A. was brought under the regular civil service laws. The reorganization plans of 1939 brought all of the previously independent corporations, except the T.V.A. and the F.D.I.C., within the confines of the regular departments or "agencies." More recently, congressional attention has been turning to a reëxamination of corporate freedom in the fiscal field.

The spearhead of this drive, which culminated in enactment of the Government Corporation Control Act, approved December 6, 1945,[4] was the congressional Joint Committee on Reduction of Non-esssential Federal Expenditures, and more particularly its chairman, Senator Harry F. Byrd. This committee was set up by the Revenue Act of 1941 to include six members from each of the two houses of Congress, plus the Secretary of the Treasury and the Director of the Bureau of the Budget.[5] The committee devoted much of its attention to the operations and financing of corporations, and issued a *Report on Government Corporations* on August 1, 1944,[6] stressing the great diversity in creation and organization of corporations, the general lack of over-all control of corporate financial operations, and the anomaly of using state charters to implement federal corporations. The committee's principal positive recommendation was that "over-all public control be established promptly with reference to current control by the Congress, the Budget, Treasury, and General Accounting Office."[7]

A bill was drawn up by Senators Byrd and Butler giving effect to these proposals, but in order to secure more immediate action on a part of the program, the two sponsors succeeded in attaching an amendment to the

[3] No. 7916, June 24, 1938.
[4] Public 248, 79th Cong.
[5] 55 Stat. 726 (sec. 601).
[6] Senate Doc. 227, 78th Cong., 2d Sess.
[7] *Ibid.*, p. 30.

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George Act, approved February 24, 1945, requiring audit of all government corporations by the General Accounting Office.[8] With the stimulation of this partial victory, hearings on the full-fledged program of control embodied in the Byrd-Butler bill were held by the Senate Banking and Currency Committee in April and May, and on the companion House measure by the Committee on Expenditures in the Executive Departments during May and June. The Senate bill was extensively amended in the House, which passed the measure on September 12 by voice vote. The Senate adopted the House bill on November 23 without a vote.[9] The control program provided by the act covers the following fields.

Budget Bureau Control. The original practice of corporate exemption from Budget Bureau controls had two bases of support. The first was that most corporations were free from the necessity of seeking congressional appropriations, being financed by government purchase of capital stock, by borrowing, by revenues or charges for services rendered, or various other methods which made them financially self-sufficient. In the absence of any requests for appropriation grants, there was normally no occasion for the Bureau of the Budget to pass on the financial programs of corporations. Where corporations were dependent upon appropriations, as in the case of the T.V.A., the regular budgetary review was of course in effect.[10]

The second ground for corporate budgetary freedom was the difficulty, if not the impossibility, of forecasting the expenditure needs of government commercial programs for periods up to two years in the future, as is required by regular budgeting methods. The use that will be made of government lending facilities, or the cost of transportation or power services, depends upon factors that are often completely unpredictable. The amount of money required in administration of the Commodity Credit Corporation's crop support programs, for instance, will vary according to the size and quality of the crop, prices, weather conditions, and the extent to which storage, transportation, and other marketing facilities are available. Again, federal intermediate credit bank debentures are sold as needed to supply funds for lending operations, and officials of the banks report that the need cannot be predicted even two months in advance.[11]

[8] The principal purpose of the George Act was to transfer the R.F.C. and its associated lending agencies out of the Department of Commerce, in order to meet the objections raised by President Roosevelt's appointment of Henry Wallace as Secretary of Commerce.

[9] The original Byrd-Butler bill was S. 469, the companion House bill was H.R. 2177, and the amended House bill was H.R. 3660 (79th Cong., 1st Sess.).

[10] See C. H. Pritchett, *The Tennessee Valley Authority* (1943), pp. 232–234.

[11] Hearings before House Committee on Expenditures in the Executive Departments on H.R. 2177, 79th Cong., 1st sess., pp. 193–194, 254.

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On the other hand, corporate exemption from budgetary control created uneasiness in many quarters because it limited the effectiveness of central fiscal planning and hampered the implementation of the President's responsibility for the conduct of all administrative agencies. In line with this attitude, steps were taken as early as 1935 to bring corporate "administrative expenses" under Budget Bureau control by executive order.[12] The *rationale* of this action was that, while it might be impossible to forecast the financial needs of substantive corporate operations, ordinary administrative expenses—for personal services, travel, printing, rent, procurement, and the like—could be estimated with reasonable accuracy. Congress took a hand in the process in 1936 by prohibiting nine corporations, none of which had previously been dependent upon appropriations, from incurring administrative expenses except pursuant to an annual appropriation specifically therefor, thus automatically extending Budget Bureau control to these corporations.[13] Administrative expenses of a group of World War II corporations were similarly brought under budgetary supervision by executive order in 1942.[14]

As a result of these developments, by 1945 the Bureau of the Budget had some degree of jurisdiction over all government corporations except the 13 banks for coöperatives, the 12 federal home loan banks, the 12 federal land banks, the Inland Waterways Corporation, the Panama Railroad Company, and Federal Prison Industries, Inc.[15] Because of these exceptions and the rather haphazard growth of its control powers, the Budget Bureau regarded the situation in this field as "at best a makeshift and an unsatisfactory arrangement,"[16] and supported the adoption of uniformly applicable control legislation which would give due consideration to the special budgetary needs of corporate enterprises.

The original Byrd-Butler bill clearly failed to fit this specification. It proposed that all wholly-owned government corporations be required to prepare a budget program annually which the Budget Bureau was to consider and include "in the annual Budget in the same manner, as nearly as practicable, as are the estimates and other information submitted in accordance with the Budget and Accounting Act, 1921." Corporations

[12] Executive Order 7126, 7150.

[13] 49 Stat. 1648.

[14] Executive Order No. 9159. It might be added that during the early days of the New Deal the Treasury Department conducted a campaign to extend corporate budget control far beyond the realm of administrative expenses. In 1935, the Treasury proposed that the R.F.C. and the H.O.L.C. be prohibited from incurring any obligations whatever "unless within estimates . . . approved by the Director of the Budget." Congress failed to act. See John McDiarmid, *Government Corporations and Federal Funds* (1938), pp. 160, 181.

[15] *Reference Manual of Government Corporations*, pp. xi–xii.

[16] Statement of Harold D. Smith, Hearings on H.R. 2177, p. 135.

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were to estimate necessary borrowing, appropriations required, and government capital funds which were to be returned to the Treasury, together with "specific estimates of administrative expenses." Under these requirements the corporations would have had to conform substantially to regular departmental budgetary practices, though the bill did give some recognition to the unpredictability of corporate financial needs by authorizing the budget program to include requests for "possible emergency or contingent operations." Expenditures under these heads could, however, be made only after approval by the President.

The officials of practically all federal corporations were greatly alarmed by these provisions. The representative of the Inland Waterways Corporation told the Senate Committee that "you cannot determine a year in advance what your volume of business is going to be, in the transportation business."[17] The president of the Panama Railroad Company said: "We do not think that a business of the type that we conduct can be operated efficiently on a fiscal-year basis."[18] Objections of this sort had some weight with the committees, and the act as finally adopted, while preserving the principle of Budget Bureau control, eliminated the requirement of "specific" estimates of administrative expenses. Instead, it was provided that the budget program "shall be a business-type budget, or plan of operations, with due allowance given to the need for flexibility, including provision for emergencies and contingencies, in order that the corporation may properly carry out its activities as authorized by law."[19]

Interpretation of the requirements of a "business-type budget" is in the hands of the Budget Bureau, which, "under such rules and regulations as the President may establish, is authorized and directed to prescribe the form and content of, and the manner in which such budget program shall be prepared and presented." There can be no doubt that the Bureau appreciates the problem of commercial corporations and will endeavor to meet their special needs. Budget Director Harold D. Smith has written: "Efficient management of quasi-commercial operations requires immediate response to changing market conditions and is less subject to definite advance programming than, for instance, are operations of current administration. Budgeting of quasi-commercial operations may therefore differ from budgeting of administrative activities."[20] In testifying before the House committee on this bill, he also indicated: " . . . the corporate budget must include a greater degree of flexibility than a regular establishment of the Government. . . . The bill, if enacted, should permit the

[17] Hearings on S. 469, p. 72.
[18] *Ibid.*, p. 122.
[19] Sec. 102.
[20] *The Management of Your Government* (1945), p. 92.

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formulation of a budget program which will adequately meet the requirements of individual corporations, since they do not fall into the same pattern. This situation will have to be explored with each of the corporations. The development of an adequate budget program will be an evolutionary process."[21] It is fortunate that the Budget Bureau approaches its task in this spirit, for the feasibility of forecasting even a "business-type" corporate budget remains to be demonstrated.

Congressional Expenditure Control. Most government corporations, as already noted, have not had to rely upon congressional appropriations for their funds. They have had sources of financial support through capital stock, borrowing, revenues from sales or services, allocations from the President's emergency funds, and loans or grants from other government agencies (notably the R.F.C.). In certain mixed corporations, private capital is invested. The consequent absence of congressional supervision and approval for expenditures of corporations not requiring appropriated funds has been one of the features of corporate administration about which Congress has tended to become most disturbed. Beginning in 1936, Congress took steps to bring the administrative expenses of many such corporations under appropriations control.[22] By June 30, 1945, corporations still enjoying complete exemption from appropriations control included

[21] Hearings on H.R. 2177, pp. 136–137. Following this lead, the Budget Bureau's instructions to the corporations for submission of their first budget programs under the new act gave full recognition to the special problems of corporate budgeting. The Bureau interpreted a "business-type" budget as involving "a concise presentation of a corporation's plan for the conduct of its present and proposed activities, setting forth the manner in which they will be financed and their effect on the earnings and financial condition of the corporation." The Budget Bureau supplied an illustrative budget program of a hypothetical corporation for the guidance of corporate officials, though recognizing that "the form and content of financial statements will vary among the corporations depending upon the type of operations." The Bureau frankly admitted that in the initial budgets it would hardly be possible to resolve all the conflicts between "two desirable objectives: (1) sufficient uniformity for purposes of consolidation and interpretation; and (2) adequate flexibility to meet the vast range of business activities carried on in the government corporations." President Truman's message submitting to Congress on May 2, 1946, the Corporation Supplement to the 1947 Budget, was in the same spirit, stating: "In developing budgetary controls applicable to the corporations, the wisest course appears to be to progress carefully, through experiment and evolution. I recommend that the Congress approve the types of programs set forth in the budgets transmitted herewith, and, in addition, provide general authority for actions necessary to meet unforeseen emergencies or contingencies arising subsequent to approval of the budget." *Cong. Rec.*, Vol. 92, p. 4431 (daily ed.).

[22] 49 Stat. 1648. Under this statute, Congress fixed annually a total which administrative expenses of the affected corporations were not to exceed. The corporations remained free to determine how their administrative expenditures would be allocated within this limit. See McDiarmid, *op. cit.*, pp. 161–162. An act of July 5, 1945 (Public 132, 79th Cong.) provided funds for the administrative expenses of a number of World War II corporations.

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49 of the 51 units in the Farm Credit system, the 12 federal home loan banks, Federal Prison Industries, Inc., the Inland Waterways Corporation, the Panama Railroad Company, and the Regional Agricultural Credit Corporation.

The Control Act of 1945 adopts a uniform rule substantially limiting corporate freedom in this respect. The original Byrd-Butler bill proposed to bring under strict appropriations control all corporate administrative expenditures, which were to be made only "in the amounts authorized and made available by Congress." But the bill went much beyond the control of administrative expenses in providing that "no wholly-owned Government corporation shall transact any business in any fiscal year except such business as is authorized by act of Congress as a part of its budget program for such fiscal year." This disastrous provision would have made it impossible for government corporations, and their customers or clientele, to make any firm plans effective beyond the end of the current fiscal year. Any activity of any corporation, even though it might be a completely self-supporting project previously authorized by statute, could be terminated by failure of Congress to include it as part of the annual budget program. It is not surprising that representatives of practically all the corporations protested that it would be impossible for them to maintain their services under such conditions. As Chairman Lilienthal of the T.V.A. put it: "Each year this grant of authority to carry on an enterprise on the basis of which this whole region—four and a half million people—have built their businesses and their lives . . . would have to be renewed. The question will arise each year: Will Congress continue those powers?"[23]

Fortunately, wiser counsel prevailed in the House committee, which, under the leadership of Rep. Whittington, adopted a compromise plan of congressional control. Section 104 of the statute provides: "The budget programs transmitted by the President to the Congress shall be considered and, if necessary, legislation shall be enacted making available such funds or other financial resources as the Congress may determine." This provision makes it unnecessary for affirmative action to be taken by Congress to finance a corporation's program if the corporation already has resources available for the purpose. Congress will, of course, be free to take any action it sees fit, after "considering" the budget program. To safeguard the corporate position, the statute adds that the provisions of Section 104 are not to be construed as preventing corporations from financing their activities as authorized under existing law, nor as affecting any existing corporate power to make contracts without reference to fiscal year limitations, nor as interfering with the T.V.A.'s statutory power to spend its revenues.

[23] Hearings on S. 469, p. 57.

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Under the Control Act provisions in this field, then, it will be necessary for all wholly-owned corporations, even those which have their own sources of financial support, to go "up the Hill" annually and run a gantlet of congressional consideration, at which time their budget programs may be approved, either by affirmative action or by failure to take any action at all, or revised in any manner that Congress may determine.

General Accounting Office Control. The adventures and misadventures of government corporations with G.A.O. control have been so extensive that only a bare summary of relationships can be presented here. Two features of the Comptroller-General's audit in particular raise questions relevant to government corporations. One is that the exclusive preoccupation of the G.A.O. with the legality of individual expenditures has in the past prevented its staff from developing any competence in the techniques of commercial auditing which need to be applied to government corporations.[24] Second, the fact that the regular government audit is a part of the process of "settling the accounts" gives the Comptroller-General power to make what are essentially administrative decisions without having any administrative responsibility.[25] This situation, difficult enough for any administrative operation, is likely to have peculiarly unfortunate results in government commercial operations.

Consequently, exemption from G.A.O. control has been a rather consistent feature in the pattern of corporate administration since the Office was established in 1921. The U. S. Fleet Corporation was early subjected to audit, but the law specified that the audit should be of a commercial nature, with no power to "settle and adjust" the corporation's accounts. The Inland Waterways Corporation, created in 1924, and the R.F.C., set up in 1932, were given statutory exemption from audit. The T.V.A. Act, passed in 1933, contained some confusing language the intent of which was to subject the corporation to a commercial audit by the G.A.O. rather than to the regular settlement of accounts. Other early New Deal corporations created under state laws were almost uniformly free from audit.

Early in 1934 this freedom from audit was attacked by an executive order subjecting the accounts of all corporations created after March 3, 1933, whose accounting procedure was not otherwise prescribed by law, to "settlement and adjustment" by the G.A.O.[26] This order, as even the conservative Byrd Committee agreed in 1944, "was unfortunate in its wording in that it provided for a rendering of accounts, similar to the

[24] An excellent brief statement of the differences between governmental and commercial types of audit is found in *Reference Manual of Government Corporations*, pp. xv–xvi.

[25] See Harvey Mansfield, *The Comptroller-General* (1939).

[26] Executive Order No. 6549, Jan. 3, 1934.

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regular agencies of Government. As a matter of fact, corporations require some treatment different from that accorded such agencies."[27] However, many of the more important corporations had their own statutory exemptions or special provisions, and so continued to enjoy their prerogatives. In practically all instances, corporations exempt from the G.A.O. audit arranged for audit of their accounts by commercial auditing firms. The banks in the Farm Credit and Federal Home Loan systems were subjected to regular audit examinations by their supervisory agencies.

These special auditing arrangements for government corporations were subjected to unrelenting attack. In his first audit report on the Fleet Corporation, the Comptroller-General objected to conducting an audit which he had not the power to enforce.[28] He helped draft an amendment to make the Inland Waterways Corporation accountable to his office,[29] and in 1928 he sponsored a bill which would have required "all officers and persons in the service of the United States, its corporate or other agencies," who handled funds, to render accounts to the G.A.O.[30] In 1933, the Comptroller-General proposed that all R.F.C. funds be brought under his expenditure control. His attempt to assert auditing powers over the T.V.A. broader than Congress had contemplated made it necessary for the statute to be amended twice to establish the limited character of the G.A.O. audit.[31]

In addition to these contentions that the G.A.O. should exercise regular auditing control over government corporations, suggestions have also been made periodically that the Comptroller-General should serve as the comptroller of all government corporations. This absurd proposal would in effect transfer administrative control over corporations to the Comptroller-General, and put him in a position where he would be responsible for auditing his own accounts and deciding on the legality of his own administrative decisions. Yet this was precisely what the Byrd Committee proposed when it recommended in 1944 that "the Comptroller-General of the United States be made the auditor and comptroller, ex officio, of each and every government corporation."[32]

The policy on audit of government corporations, then, has been as

[27] Senate Doc. 227, 78th Cong., 2d Sess., p. 28.

[28] House Doc. 111, 71st Cong., 1st Sess., p. 49.

[29] House Rep. 1215, 72d Cong., 1st Sess., p. 25.

[30] H.R. 12180, 70th Cong.

[31] See Pritchett, *op. cit.*, pp. 249–263. The most recent statute giving exemption from G.A.O. audit is the National War Agencies Appropriation Act, 1944 (57 Stat. 529) affecting corporations created by the Coördinator of Inter-American Affairs.

[32] Senate Doc. 227, 78th Cong., 2d sess., p. 30. For a similar proposal relating to the R.F.C., see McDiarmid, *op. cit.*, pp. 158–159. The Secretary of the Treasury and the Budget Director dissented from the Byrd proposal.

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lacking in uniformity as in the case of other forms of corporate fiscal control, with some corporations subject to complete settlement of their accounts, others subject to so-called "commercial" audit, and still others completely free from government audit. The break-up of the status quo in this field began in 1944, when the Commodity Credit Corporation was subjected by statute to G.A.O. audit "in accordance with the principles applicable to commercial corporate transactions."[33] One year later, when adopting the George Act removing the R.F.C. from the control of the Secretary of Commerce, Congress wrote into that statute a general requirement along the lines of the C.C.C. statute, subjecting all government corporations to a commercial-type audit by the G.A.O.[34] The George Act did not, however, result in a uniform system for all corporations, since the more restrictive corporate audit provisions of certain earlier statutes were not superseded.

The Control Act of 1945 substantially reënacts the George Act in this respect, providing for G.A.O. audit "in accordance with the principles and procedures applicable to commercial corporate transactions." Audit reports on all corporations are required to be submitted by January 15 following the close of each fiscal year, and are to include: "a statement [showing intercorporate relations] of assets and liabilities, capital and surplus or deficit; a statement of surplus or deficit analysis; a statement of income and expense; a statement of sources and application of funds; and such comments and information as may be deemed necessary to keep Congress informed of the operations and financial conditions of the several corporations, together with such recommendations with respect thereto as the Comptroller-General may deem advisable, including a report of any impairment of capital noted in the audit and recommendations for the return of such Government capital or the payment of such dividends as, in his judgment, should be accomplished. The report shall also show specifically any program, expenditure, or other financial transaction or undertaking observed in the course of the audit, which, in the opinion of the Comptroller-General, has been carried on or made without authority of law."[35]

One difficulty with this requirement for a commercial-type audit is that the G.A.O. has by past experience demonstrated the inability, or at least the unwillingness, of its auditors to conduct such an audit. However, for its new responsibilities the G.A.O. has set up a Corporations Audit Division and secured additional staff members experienced in commercial auditing methods, so that more favorable results may be anticipated in the future. It is extremely important that the new auditing program be handled in competent fashion by the G.A.O., for the statute

[33] 58 Stat. 105. [34] 59 Stat. 5. [35] Sec. 106.

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forbids corporations to arrange for private audit of their records in the future, unless expressly provided for by law.[36]

In the drafting of the Control Act, a difficult question was the relation of the G.A.O. audit to the audit which the Farm Credit Administration and the Federal Home Loan Bank Administration conduct of the banks in their respective systems. Since these audits are integral parts of systems of administrative supervision and regulation, they could not be abandoned; yet Congress was determined not to exempt any corporations from the Comptroller-General's supervision. Consequently, both types of audits will continue for these agencies, and a certain amount of duplication appears inevitable, although the statute seeks to avoid it by requiring the Comptroller-General to utilize, so far as practicable, "reports of examinations of government corporations made by a supervising administrative agency pursuant to law."

Finally, it should be noted that the authority given to the Comptroller-General to recommend the return of government capital or the payment of dividends by corporations is a substantial new infringement of the rights of corporate management. Since Congress is likely to follow the advice of the Comptroller-General on these points, it means that decisions on matters of the greatest importance for effective corporate administration have been transferred from the control of the responsible boards of directors to an auditor without responsibility for administrative results.[37]

Treasury Control. The Control Act brings government corporations under new controls with respect to custody of funds, issuance of bonds, and dealings in government obligations. Complete freedom in the handling of corporate funds has characterized many corporations. The Panama Railroad Company has kept its funds in several New York banks as well as in two American banks in the Canal Zone. The Inland Waterways Corporation has deposited collections in national banks in the communities where the business originated. In the banks of the F.C.A. system, funds other than those earmarked for paying bond interest or principal have been deposited in local member banks of the Federal Reserve system. On the other hand, a considerable number of corporations have found it possible to carry their funds in checking accounts with the Treasury, as the T.V.A. does, or, as in the case of the R.F.C., with both the Treasury and Federal Reserve Banks.

[36] Sec. 301(d). This section reënacts a similar prohibition in the First Deficiency Appropriation Act, 1945 (59 Stat. 81). The Control Act also authorizes the G.A.O. to employ the services of auditing firms and organizations for temporary periods or special purposes.

[37] See the views of the president of the Panama Railroad Company, Hearings on S. 469, pp. 133–134.

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The Treasury has taken the view that corporation funds should be deposited with the Treasurer of the United States, and the Control Act adopts this principle. However, it allows considerable leeway by permitting funds, with the approval of the Secretary of the Treasury, to be carried with a Federal Reserve Bank, "or with a bank designated as a depositary or fiscal agent of the United States."[38] The Secretary of the Treasury is, moreover, permitted to waive these requirements, which in any case are not to apply to the banks of the F.C.A. system, those banks simply being required to report the names of their depositaries to the Secretary of the Treasury.

In order to insure that all corporate borrowing operations are coördinated with the Treasury's program, the Control Act makes corporate determinations as to the time, terms, and conditions under which obligations are to be issued to the public subject to the approval of the Secretary of the Treasury.[39] In so far as corporate obligations carrying government guarantee are concerned, this provision simply restates existing statutory requirements.[40] However, issues having no government guarantee—principally those of the federal land banks, intermediate credit banks, and home loan banks—have been legally free from Treasury control, although in practice the corporations have consulted with the Treasury on these matters. For example, the federal land banks have agreed, at the Treasury's request, not to market bonds for terms longer than ten years, though they have felt that it would be sounder policy to issue some bonds for longer terms in view of the fact that their loans may run for periods up to 34 years. The Farm Credit Administration contention that this system of voluntary coördination had operated satisfactorily was successful in winning exemption from the Control Act provisions, F.C.A. banks being required simply to "consult" with the Treasury before conducting borrowing operations.

Finally, the Control Act brings under Treasury control the sale or purchase by government corporations, on their own account, of any direct or guaranteed obligations of the United States, again with the exception

[38] Leo T. Crowley, chairman of the F.D.I.C., made the following case against these controls. "It is necessary that the Corporation have working accounts in various communities in order to have funds available for payment of expenses incurred in these communities in connection with the liquidation of bank assets, the payment of insured depositors' claims, and the collection of funds realized from liquidations. . . . To impose upon the Directors of the Corporation the necessity of obtaining the approval of the Secretary of the Treasury for maintenance of these accounts would merely divide the administrative responsibility and thereby impair the efficiency of the Corporation." Hearings on H.R. 2177, p. 17.

[39] Sec. 303 (a).

[40] As Chairman Jones of the R.F.C. stated in 1935: "Of course, we can only lend the money that the Secretary of the Treasury permits us to lend, because if he does not buy our notes, lend us money, or permit us to sell our notes, we have no funds." McDiarmid, *op. cit.*, p. 162.

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of the F.C.A. banks. While the motive of this control provision is sound, it should be recognized that it constitutes another serious invasion of corporate responsibility. As the F.D.I.C., 95 per cent of whose funds are invested in government obligations, put the case: "The effect of these provisions . . . is to vest in the Secretary of the Treasury control over practically all of the Corporation's funds. . . . The manner in which the Corporation's directors exercise their duty of investing its funds in Government securities should not be subjected to the control or approval of the Secretary of the Treasury since to do so divests the Directors of authority while continuing their responsibility and invests the Secretary of the Treasury with authority but without concomitant responsibility. . . . It seems inappropriate to subject the specially dedicated funds of the Corporation to the control of the Treasury whose primary duty is to protect the Government's interest may not always parallel the director's obligations as to the Corporation's funds."[41]

Control of Mixed-Ownership Corporations. The new statute makes special provision, under Title II, for control of government corporations in which there is some investment of private funds (central bank and regional banks for coöperatives, federal land banks, federal home loan banks, and the Federal Deposit Insurance Corporation). In the first two types of banks, which are members of the F.C.A. system, purchase of capital stock by borrowers is a condition of securing loans. Several of the federal land banks are now completely borrower-owned, all government capital stock having been retired. In the federal home loan banks, stock must be purchased by the member institutions (building and loan associations, savings banks, etc.). A considerable share of the capital stock of the F.D.I.C. is held by the Federal Reserve banks.

Because the government has only a partial interest in these corporations, the Control Act imposes upon them no requirement for submission of an annual budget program. Title II does, however, subject them to the same commercial-type audit by the G.A.O. as is prescribed for wholly-owned corporations, so long as there is any government capital invested in them. In addition, the President is authorized to include in the annual budget any recommendations he may wish to make as to the return of government capital by any mixed-ownership corporation.

Acquiring and Losing Corporate Status. Finally, the statute strikes at what has been widely regarded as a too profligate use of the corporate form of organization by the federal government,[42] by providing a method

[41] Hearings on H.R. 2177, p. 19.

[42] As Budget Director Smith said before the House committee: "We have had a great increase in the number of corporations and in the volume of corporate activities, sometimes, I think, without very careful consideration of the corporate instrument as against the appropriation process. Some of the corporations might very well have been established under the regular appropriation process. . . ." Hearings on H.R. 2177, p. 138.

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whereby government corporations can in effect be stripped of their corporate status. Under Section 107, the Director of the Budget Bureau, with the approval of the President, may include in connection with the budget program of any corporation a recommendation that it be treated "with respect to its appropriations, expenditures, receipts, accounting, and other fiscal matters as if it were a Government agency other than a corporation. . . ." If Congress approves this recommendation, the corporation will, one year later, come under the provisions of the Budget and Accounting Act and other statutes regulating the fiscal affairs of regular departments. While corporate financial privileges will be lost thereby, the "corporate entity" of the organization will not be affected by this action.

The Control Act also sets its face against further use of state incorporation acts for the creation of federal corporations. While incorporation under state laws has been useful in permitting prompt administrative action to meet emergency situations, there is a certain anomaly in using state facilities to bring a federal agency into existence, and the practice has not been without abuses.[43] The Control Act provides that in the future corporations may be set up only "by Act of Congress or pursuant to an Act of Congress specifically authorizing such action."[44] As for existing corporations created under state or territorial laws, they may not continue as agencies of the United States after June 30, 1948. Liquidation will then be mandatory, unless prior to that time they are re-incorporated by act of Congress. It is to be assumed that Congress will take appropriate action of this sort in the case of most of the corporations now existing by virtue of state authorization.

Conclusion. In the management of public enterprise there has developed, during the past several decades, "a widespread and almost universal movement toward autonomy." Through the typical modern expression of the autonomy movement, the public corporation, attempts have been made "to eliminate the defects both of private ownership under rigid government control and of government ownership and operation in the traditional manner."[45] That the autonomous public corporation can fulfill these expectations is demonstrated by the experience of Great Britain, where such successful corporate enterprises as the Central Electricity Board, the British Broadcasting Corporation, the Port of London Authority, and the London Passenger Transport Board are now about to be joined by a new group of corporations charged with responsibility for the greater part of the Labor party's nationalization program.

[43] See the comments of John Thurston, *Government Proprietary Corporations* (1937), pp. 37–41.

[44] Sec. 304(a).

[45] Fainsod and Gordon, *Government and the American Economy* (1941), pp. 679, 684.

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In the United States, on the other hand, an over-enthusiastic and unplanned exploitation of the corporate device has been followed by an increasingly vigorous assault on both the good and bad features of corporate administration. The Control Act of 1945 is the latest step in ten years of retreat from the principles of corporate autonomy. It goes far toward completing the task of eliminating the features which have made government corporations useful instruments for enterprise purposes. This result is apparently what Congress desires, but it makes little sense to adopt the Control Act while almost simultaneously a Senate committee is criticizing the Commodity Credit Corporation because it "has in effect ceased to function as a public corporation as was intended by the various laws creating and extending the life of the Corporation."[46]

The administrative freedom originally enjoyed by American government corporations was achieved at the expense, and was in fact the result, of a considerable confusion as to the exact legal status and consequences of the corporate form. In 1935, Oliver P. Field pointed to the absence of adequate statutory basis for government corporations, largely due, he felt, to the fact that Congress had not had any clear idea "of the exact place that these corporations were to hold in government and in the economic order. . . ."[47] The existing uncertainties in the law of government corporations, he suggested, should be remedied by enactment of a carefully-drawn statute under the terms of which all corporations federally owned and operated should be incorporated, and covering questions of their organization, control, powers, finance, and position in the government. Field assumed, however, that the purpose of such a statute was to regularize corporate freedom, not to destroy it, to define a new pattern of administrative relationships and control, not to reinstate the existing departmental routines.

The Control Act adopts Field's method, but hardly his spirit. Aware that it was drafting a general statute applicable to a wide array of corporations set up for varying social, economic, and political reasons, Congress admittedly exercised greater restraint than in some of its other attempts to control administrative action through *omnium gatherum* legislation.[48] Nevertheless, the Control Act does in its broad sweep override the substantive provisions of numerous earlier statutes carefully drafted to meet the problems of particular corporations, and the pattern of control imposed means that, for good or ill, American experience with autonomous public corporations is substantially at an end.

[46] Sen. Rep. 936, 79th Cong., 2d Sess. (1946).

[47] "Government Corporations: A Proposal," *Harvard Law Review*, Vol. 48, pp. 775, 781 (1935).

[48] For example, the Walter-Logan bill, the effect of whose Procrustean formula, James M. Landis said, would have been "to cut off here a foot and there a head, leaving broken and bleeding the processes of administrative law." "Crucial Issues in Administrative Law," *Harvard Law Review*, Vol. 53, pp. 1077, 1102 (1940).

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STATE LEGISLATIVE REORGANIZATION

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While much attention has been given to the efforts of Congress to improve itself,[1] the activities of the state legislatures which have sought improvements as diligently, incidentally fulfilling their laboratory function, have gone virtually unnoticed. Twenty-eight states have given consideration to the renovation of the law-making branch. Comprehensive studies were made in Massachusetts,[2] Connecticut,[3] and in a more limited manner in California.[4] New York, currently intent on modernizing its legislature, has already issued an interim report on expenditures and personnel,[5] although the complete recommendations of its Joint Legislative Committee are yet to come. Committees whose frame of reference limits them to "tinkering" rather than "overhauling" are at work in Michigan and Colorado, with no reports yet submitted. In Alabama, an interim committee called for limited changes.[6] The Bureau of Research established by the Indiana General Assembly in 1945 is authorized, among other things, to conduct research into improved methods of legislation.

The crucial position of the state legislatures in our scheme of government

[1] For the efforts made in Congress, see John A. Perkins, "Congressional Self-Improvement," in this *Review*, Vol. 38 (June, 1944), pp. 499–511. The problem was viewed by the Committee on Congress of the American Political Science Association in its *Reorganization of Congress* (Washington, 1945); a briefer survey is that of the National Planning Association, Robert Heller, *Strengthening the Congress*, Planning Pamphlet No. 39, Jan., 1945. In 1945, the Joint Committee on the Organization of Congress (79th Cong., 1st Sess., H. Con. Res. 18) conducted hearings and studied these subjects: staffing, committee structure and operation, relations between House and Senate, liaison between Congress and Executive, legislative oversight of administration, relations with electorate and with special interest groups, congestion of legislative business, administrative organization of Congress, and compensation of congressional personnel. Unfortunately, the Committee was not authorized to recommend changes in rules and procedure. For the Committee's report, see *Organization of the Congress; Report of the Joint Committee on the Organization of Congress*, 79th Cong., 2nd Sess., Sen. Rep. No. 1011, Mar. 4, 1946. For an excellent collection of articles on the subject, see *Symposium on Congress*, Special Joint Committee on the Organization of Congress, Aug., 1945.

[2] *Report of the Special Commission on Legislative System and Procedure*, Senate No. 50, Massachusetts, Jan. 1, 1943.

[3] *Report of the Legislative Council*, State of Connecticut, Nov. 16, 1944.

[4] *Reports of the Assembly Committee on Legislative Organization*, California, 1944.

[5] *Interim Report of the New York State Joint Legislative Committee on Legislative Methods, Practices, Procedures, and Expenditures*, Legislative Document No. 35, Mar. 21, 1945; *Final Report . . .*, Legislative Document No. 31, Feb. 15, 1946.

[6] *Reports of Interim Committees*, Alabama, Regular Session, 1945, Legislative Document No. 1, pp. 36–51.

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cannot be over-emphasized. The failure to make themselves truly representative by periodic reapportionment and to streamline their organization and procedure, not to mention corruption among personnel, has resulted in an inability and unwillingness to rise to their responsibilities.[7] Political collusion between rural legislators and their henchmen in local government has thwarted unification of multitudinous jurisdictions and the modernization of local administration. When depression-born demands for modern services were not met by state and local government, the federal government of necessity undertook new functions, causing centralization of government in the United States amid condemnation by the same state lawmakers whose inaction clipped democracy short at the grass roots. Wartime necessity increased centralization still further and made for an awareness of its disadvantages beyond the circle of local officialdom. Under the circumstances, it is not likely that the state legislatures will be willing any longer to confine the rôle of the commonwealths merely to setting up needed administrative organizations to implement policy the national government has laid down—the rather unequal partnership prevailing during the depression and the war and euphoniously labeled the "new federalism."[8] There may now be an awareness that only by a real reformation can the legislatures hope to cope with the growing complexity and technical character of the subject-matter with which they would deal. To regain their long lost prestige, they must also demonstrate that they are not only responsive to local needs, but also sensitive to more than local problems.

The degree of responsiveness to local needs depends upon the frequency of reapportionment. The most thoroughgoing reapportionment of recent years was achieved in 1943 in New York, which had not been redistricted for a quarter-century. Inroads upon rural dominance were made by an increase in the representation of New York City from 62 to 67 assemblymen and from 22½ to 25 senators. The metropolis thus has 44.6 per cent of the legislative membership, while containing 53.4 per cent of the population. The constitutionality of the act was challenged in the courts because it raised the number of senators beyond what was construed to be the constitutional limit. Upheld by the Court of Appeals, the highest tribunal of the state, which reversed a lower court decision,[9] the act went into effect for the 1944 elections. Several other states have redistricted their lower houses without revising the representation in second

[7] Jarvis Hunt, "How Our State Legislatures Can Be Improved," *State Government*, Vol. 17 (Sept., 1944), p. 400. For instances of corruption, see the presentments of the grand jury investigations in Michigan and New York begun in 1943 and continuing into 1946 in the former state.

[8] For a discussion of this relationship, see William Anderson, "Federalism—Then and Now," *State Government*, Vol. 16 (May, 1943), pp. 107–112.

[9] *In re* Fay, 52 N.E. (2d) 97 (Nov., 1943).

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chambers. In 1943, Michigan did considerable juggling to redistribute her constitutionally-fixed membership of 100 so that the urban centers would be more equitably represented. Wayne county, containing Detroit, has a total of 27 seats (and that percentage of the total) and has 38.3 per cent of the state population.[10] By passing an amendment in November, 1942, New Hampshire, which has the largest lower house of all the 48 legislatures, took steps to reduce its numbers from 443 to 375 or 400, without losing its unique position as to size. Kansas achieved a reapportionment of representative districts in 1943, leaving the number of districts unchanged at 125. Minor changes were made in Louisiana. With the adoption of the new constitution in Georgia in August, 1945, the number of senators was raised from 52 to 54.

Missouri cities, particularly the metropolitan area of St. Louis, are assured of greater equality of representation through the adoption of the new constitution in that state. To bring about a redistricting of the state for the election of senators, which has not been done for 43 years, it is provided that the governor shall appoint a commission of ten members to be chosen equally from two lists of names submitted by the state committees of the two major political parties. If the commission fails to redistrict the state within six months after its appointment, it is discharged, and the senators are to be elected from the state at large, after which a new commission is to be appointed. A redistricting committee is to be appointed also after each decennial census. Reapportionment of representatives among the counties, not carried out since 1921, is made the responsibility of the secretary of state. After each decennial census, he is required to determine the number of representatives to be elected in each county according to a prescribed ratio of representation.

Reapportionment was rejected by New Mexicans in November, 1942, and the people of Florida refused to create new senatorial districts in the election two years later. An Alabama interim committee on the constitution and legislative procedure pointed out that there had been no reapportionment since the constitution was adopted in 1901, although the subject has been brought before each session of the legislature since 1910. The committee failed to make any recommendation itself, "realizing . . . that each individual member of the Legislature will vote his own personal sentiment or that of his constituents upon the question. . . ."[11] Similarly, the Joint State Government Commission of Pennsylvania was directed by law in 1943 to submit a report on reapportionment, although investigation shows that none was forthcoming.[12] Legislative reapportionment

[10] This statute was upheld in Stenson v. Dignan, 13 N.W. (2d) 202 (Feb., 1944).

[11] *Reports of Interim Committees*, Alabama, *op. cit.*, p. 50.

[12] Letter from W. E. Habbyshaw, Clerk, House of Representatives, Aug. 24, 1945.

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proved the overshadowing issue in the defeat of a resolution to revise Illinois' 75-year-old constitution. Downstate members feared they might lose the dominance they have enjoyed under the apportionment of 1901, which permits them to control the majority of the people in the state living in the metropolitan area of Cook county.[13] The chairman of the reapportionment committee of the House is opposed to any plan that would give Chicago and Cook county "a single additional vote in the state legislature." This reluctance to meet the basic tenets of democracy in a country not only devoted to democratic theory but confronted by the problems of an urban society has contributed to the atrophy of state government as a policy-making jurisdiction. In answer to those who fear that proper urban representation would damage the legislative process, it needs only to be pointed out that Massachusetts is one of the few states in which the overwhelming urban population is reflected in the somewhat exemplary legislature to the extent that it, too, is urban dominated.

Much of the discussion about state legislative organization has centered around unicameralism since its adoption by Nebraska in 1936. Enthusiasm ran high in 1937, when amendments providing for a unicameral system were introduced in twenty-two states. But only one state has recently come near adopting it. Missouri voters initiated a proposal for unicameralism in November, 1944, and then subsequently tried to withdraw it, realizing that the adoption of the new constitution then being considered would nullify any success in amending the old constitution. The question remained on the ballot, however, and lost by the small margin of 37,000 votes, which might indicate that success could be attained if attempt were made to change the bicameral provision of the new constitution. Although unicameralism deserves the high praise given it in Nebraska,[14] all legislative reform does not wait upon it, for experience with annual sessions has proved their superiority over biennial sessions, although this test has been accompanied with less fanfare.

Annual sessions are proposed as a means of solving the problem of enormous work loads and changing budget needs of recent years. Having tried biennial sessions for six years, Massachusetts voters ratified an amendment in November, 1944, for returning to annual sessions, thus making five states that have such. The Connecticut legislature having passed an amendment for annual sessions, the people's action on the referendum is being recorded by town elections; thus far, returns forecast defeat. Annual sessions there would be limited to 70 days, whereas the biennial

[13] Illinois Legislative Council, *Reapportionment in Illinois*, Publication No. 66, Feb., 1945.

[14] John P. Senning "Unicameralism Passes Test," *National Municipal Review*, Vol. 33 (Feb., 1944), pp. 60–65.

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sessions are now allowed to run 150 days. The issue of annual sessions was closely linked in California with the desire, if not practical necessity, for an annual budget; but it was rejected in the November, 1944, elections. Georgia earlier had refused to adopt the change (in 1941).

While the debates on Congressional improvement reveal a desire for closer legislative oversight of administration, similar concern is not so evident in the states. In the arguments for annual sessions, however, the defects of the biennial sessions in this respect are brought out. The report of the Legislative Council of Connecticut explained: "The worst aspect of the biennial session is that it encourages the expansion of executive power." The Massachusetts special commission stated in the same vein: "It is undemocratic for the duly elected representatives of the people to delegate for the greatest portion of their terms the prerogatives which maintain the unbroken contact of the people with their legislative representatives."[15] This very delegation has been upheld as one of the "most promising methods of improving the legislative process."[16] In fact, there has been more concern that the legislature delegate administrative power, thus improving the legislative process, than that the legislature, once having delegated the power, be made capable of overseeing its exercise. The writer has observed that the attitude of the legislators toward administrative departments is somewhat paradoxical. The lawmakers are reluctant to delegate, even as to details, that type of legislation which they feel they know something about (such as the dates of the open season for game). But they are quite willing to accept for quick passage legislation upon complicated matters of which they have little understanding when such legislation is recommended to them by the administrative departments.

In 1945, Michigan legislators took to themselves the power to abrogate rules and regulations of state agencies, feeling that the step was necessary to combat "bureaucratic activities." The act was vetoed on the ground that the legislature would be burdened with tremendously increased detail and would be diverted from major issues of public policy. In Connecticut, the legislature's annoyance with the rule-making of state agencies was centered on the failure to give adequate publicity to regulations. To correct this, it enacted a law in 1945 providing that all rules and regulations issued by state departments should be filed with the secretary of state and published in the *Connecticut Law Journal*, a state publication, before becoming effective. In the same year, the General Assembly of Pennsylvania approved a so-called *Register Act* providing for the publication and distribution of administrative rules. Michigan, two years earlier,

[15] *Report of the Special Commission, op. cit.*, p. 99.

[16] Arthur N. Holcombe, "Legislative Assemblies: State Legislatures," *Encyclopaedia of the Social Sciences* (New York, 1933), Vol. 5, p. 369.

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passed an act providing for codification and publication of administrative regulations of all state agencies, and also required that each rule include a reference to the statute upon which the rule was based. These three acts indicate an awareness of the problem of control; but the legislatures have wisely refrained, or been restrained in the case of Michigan, from trying to exercise such control directly. Interim legislative commissions have approached the problem of control over administration in two ways: by themselves performing the function of review and by studying the need for legislation to accomplish that end. Ohio established an administrative law commission to study administrative practice, procedure, and process of review in effect among several departments, boards, and bureaus.[17] An interim committee in Colorado may investigate any department of the state in which irregularities occur, or upon complaint made to the chairman of the committee, any irregularity being committed by any institution, board, or bureau; it may investigate the financial operation and expenditure of funds by any institution operating under state authority. The Minnesota Interim Committee on State Administration and Employment had broad investigative powers under which it gathered factual data and analyzed functions. It then submitted a report, with its recommendations, to the 1945 legislature.

Because the budget offers the best opportunity for legislative control of administration, interim committees have been set up in this area. California created a Joint Legislative Budget Committee in 1941 which meets either during or after the session to study and make recommendations concerning state revenues and expenditures. It has a staff under the Legislative Auditor, whose members serve as the fact-finders. Utah found its consideration of the budget more satisfactory after creating, in 1943, a joint committee staffed with experts to give it guidance and carry on continuous investigations. Of the six interim commissions appointed in Alabama in 1943, one was on appropriations and finance; while outstanding among the 18 interim commissions for the Illinois legislature was the budgetary commission to work with the state departments in preparing the state budget. The budget committee of Arkansas has met prior to the convening of the legislature, thus resembling an interim commission, although its emphasis has been on the preparation of a legislative program instead of investigating the administration, except in so far as that is an inevitable part of budgeting.

The legislative council device has been steadily spreading, thus improving leadership within the legislature and at the same time freeing the legislature of executive domination. Some of the early legislative councils were composed of representatives of both legislative and executive depart-

[17] *Ohio Public Acts*, 1943, S. 133.

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ments, but one by one the states have eliminated the members from the latter branch, until now all councils are entirely legislative. Kentucky followed the pattern in 1944 by repealing a provision that the governor and five administrative officials should be members. Thirteen of the states now have councils. One of these was given constitutional status in 1945, and three others were created in the same year. A permanent Joint Committee on Legislative Research, with most of the functions of a legislative council, was established in Missouri in 1943 and was put on a constitutional basis when the new basic law was adopted in February, 1945. The new Alabama Legislative Council has responsible to it a Legislative Reference Service with a director and staff, to serve as the council's "research, reporting, and bill-drafting agency."[18] In North Dakota, a Legislative Research Committee with all the functions of a council was created.[19] The Indiana General Assembly, in creating a Joint Legislative Advisory Commission to advise the legislative research bureau established at the same time, seemed to place the emphasis upon the staff aspects of the legislative council arrangement:[20] possibly it is time that statutes recognize that the staff is the most important element in the success of such agencies. Two years earlier, Connecticut and Pennsylvania authorized, respectively, research and consultative agencies and a director and professional assistants for their councils of long standing, thereby enlarging their usefulness. The development of legislative staff agencies, be they connected with councils or not, is remarkable indeed in view of the rural domination of state legislatures wherein the philosophy persists that the state should do as little as possible and that the most successful legislative sessions are those which pass the fewest laws.

Research agencies and other staff facilities are sometimes available to legislatures without being in any way integrated as they are coming to be under legislative councils. The Legislative Reference Bureau of Delaware, headed by an executive director, was created in 1945 to engage in bill-drafting and substantive research. Two years earlier, Florida created a statutory revision department with legislative drafting and reference duties, and North Carolina at the same time enlarged the powers of the Division of Legislative Drafting to include continuous substantive research. Not all changes in legislative staffing have meant progress. The time to be given to staff work by the director of legislative reference in Colorado was reduced in 1943 from "his entire time" to from 60 days prior to the convening of the General Assembly through 30 days after adjournment. There might be a question of the wisdom of Kentucky's action in 1944 which abolished the research director of the legislative council and

[18] *Public Acts of Alabama*, 1945, no. 152.
[19] *Public Acts of North Dakota*, 1945, no. 289.
[20] *Indiana Public Acts*, 1945, no. 283.

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provided instead that the state university and colleges shall make needed studies. It should be recognized, at the same time, that in Alabama and California the universities have been successful in servicing the legislators.

Appropriation committees have been in the forefront of the efforts to procure research staff aides. New York, California, Utah, and Michigan have recognized the special need of their budget committees for competent employees. Inasmuch as executive budget systems are so inadequate that the real burden of budgeting is shouldered by legislative committees, progress in state budgeting in many instances waits upon the proper staffing of these all-important committees.[21] The New York Joint Legislative Committee on Legislative Methods, in its interim report, recommended that after the war at least one clerk or stenographer should be assigned each legislator. Excellent staff assistance to the New York Joint Legislative Committee on Labor and Industry (known as the Ives Committee) has kept it abreast of the kaleidoscopic industrial field and informed about the work of the administrative agencies and the attitudes of the interest groups, so that coöperation has been maintained among the administrative, legislative, and private interests concerned.[22]

The case for staffing is further strengthened by the fact that a strong research group will weaken the influence of lobbyists. Decrying "the present practice of legislators to place such complete reliance and naive faith in the reports of lobbyists,"[23] the Massachusetts commission pointed out that there have long been laws in Massachusetts to regulate lobbying practices, but that they are not strictly enforced and no prosecutions or convictions have taken place. The commission proposed that legislative counsel display at the hearings a "legislative advocate card" identifying the lobbyist completely as to occupation, employer, and the interest he represents. This report also proposed that lobbyists file a brief containing a summary of arguments and a citation of authorities, with copies for committee members and the public.

The problem of regulating lobbyists is not always a matter of controlling "outsiders" who would influence legislation. The activities of lawyer-legislators in Michigan, who wrote statutes in which their clients were interested, appeared for clients before state agencies, or even represented clients in transactions with the state government, aroused considerable controversy. The result was the passage of a bill in 1945 making it a felony for a legislator to be employed by anyone interested in pending

[21] See the author's "The Budget in the Legislature," *State Government*, Vol. 17, no. 11 (Nov., 1944), p. 447.

[22] See Phillips Bradley, "Blazing New Trails," *Survey Graphic*, May, 1944.

[23] *Report of the Special Commission, op. cit.*, p. 36; Eleanor Killpartrick, "Bay State Lobbyists Toe the Mark," *National Municipal Review*, Vol. 34 (Dec., 1945), p. 543.

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measures for more pay than a non-legislator would receive or to accept payment for services in connection with the defeat or passage of a bill.[24]

While the lobbyist is usually a man of long experience in and about the state house, most legislators are newcomers who quickly become indebted to the members of the "third house" for the schooling they receive. Informational bulletins and pre-session conferences have recently been utilized to give freshman lawmakers an objective orientation. In *A Manual for Alabama Legislators*, the Bureau of Public Administration of the University of Alabama has presented a reference aid for lawmakers. Connecticut recently issued a pocket-size booklet entitled *Information for Connecticut Legislators*, and containing an explanation of how each house works, the various publications, and other specific information. More important to the pre-entry training of the Connecticut legislator was a pre-session conference held in December, 1944, where new members and others heard descriptions by those who render them of the various services available to legislators, and met separately in each house for instructions in rules and procedures. Arkansas' Institute of Legislative Procedure, conducted by the extension division of the state university, includes a mock legislative day when the novices are familiarized with the intricacies of parliamentary practice, committee procedure, and the various documents with which they will be working. In Colorado, an interim commission planned a suitable program for a pre-session legislative conference with the aid of the legislative reference office to coördinate the work. If it is good personnel practice in a state to give vestibule training to clerks, why has so little effort been made to do as much for those who frame basic policy?

One of the greatest criticisms leveled at the state legislatures, and rightly so, has been their inability to schedule their work. Nothing much has been done to overcome this weakness except resort to the discredited palliative of limiting the length of the session, as Connecticut would do in conjunction with its proposed annual sessions. To bring about an orderly work program, the Massachusetts commission recommended that all bills be filed by the first Wednesday in December, and after this date no bill might be introduced unless approved by the committee on rules acting concurrently, and unless their report was accepted by three-fourths of the house where the bill was to be introduced. Introduction a month before the General Court convenes would permit work to begin at once, for reference of bills to the various committees would have been accomplished by the clerks, with the legislature having opportunity to object during the first few days of the session.

Considerable change has been made in the organization and procedure of committees to facilitate their functioning and thereby expedite the

[24] *Detroit Free Press*, July 17, 1944; *Senate Enrolled Act* No. 83.

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whole legislative process. California adopted a complete reorganization of standing committees in the Assembly. Whereas sessions prior to 1943 had 58 standing committees, a regrouping reduced them to 25—2 on the legislature, 16 on government, and 7 on industry. A schedule of committee meetings is worked out and then members indicate their preferences in committee assignments. On the basis of the schedule and the preferences, the speaker makes the final appointments, making certain that the three committees to which a member is assigned do not meet at conflicting times (thus avoiding one of the greatest complaints and excuses of legislators). Time conflicts are overlooked only in two circumstances: to give proper representation of a member's district or because of his previous committee experience. A similar reduction in the number of committees for the same sound reasons has been worked out and was adopted in 1945 by the Michigan senate. The reduction was from 25 to 19 committees, accomplished chiefly by abolishing separate committees for the various state educational institutions and assigning their functions to one committee on education. In the same year, the Illinois senate cut its standing committees from 35 to 26.

Connecticut, one of the few states using joint standing committees exclusively, has made even that superior system better by revising the list of committees to relieve one committee that was extremely overburdened. While the judiciary committee was given relief by careful distribution of bills, others were given matters of some importance for the first time. Notwithstanding a well-founded recommendation for reduction in committees in the Alabama legislature,[25] no action was taken.

Several steps have been taken and others projected to make legislative committees more accountable for their action—or lack of it. Missouri's new constitution provides that each committee shall keep a record of its proceedings and that the recorded vote of the members shall be filed with the report on each bill. If the suggestion of her study commission is followed, Massachusetts would appoint a secretary for each standing committee who would keep a record for subsequent publication of attendance at meetings and hearings, as well as an account of the minutes of each. The Bay State commission also suggested that every report to the General Court contain a brief statement of reasons supporting its stand. These reports would enable the lawmaker to make his decision on the basis of reasons, however succinctly they might be stated, instead of on the basis of faith in the sponsor, the governor, or his party. The new constitution of Missouri provides that a vote of one-third of the members of either house shall "relieve a committee of further consideration of a bill and place it on the calendar. . . . " In 1945, Connecticut adopted another precaution against clandestine committee action: When a bill has been intro-

[25] Hallie Farmer, *The Legislative Process in Alabama: Standing Committees*, Bureau of Public Administration, University of Alabama, 1945.

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duced in committee ("raised"), instead of through regular channels, it must be assigned for a public hearing in the committee before being reported to either house or senate. Experience indicated that "raised" bills sometimes "slipped through" with no opportunity for the public to register its favor or disfavor before passage.

The discernible tendency for legislative salaries to be increased reflects the unfounded belief that more adequate remuneration will attract better men to the legislatures. Since 1942, salary increases have been provided in seven states: Maryland, Minnesota, Indiana, South Carolina, Kentucky, New Mexico, and Georgia. Increases were rejected in California, Utah, and Michigan. Pending amendments in Connecticut and Idaho would likewise, if passed, result in increases.

Changes in mileage and subsistence expenses took the form of lifting of limitations in Minnesota and Missouri, while positive increases were made in New Mexico and Washington. The courts approved California's allowing legislators their expenses as well as their pay while attending legislative sessions, but resisted the Kentucky legislators' attempt to increase their stationery allowance. Only in North Dakota were increased expenses and maintenance rejected.

The question of paying legislative employees has received much attention and was highlighted by the disturbing disclosures of the special grand jury investigating legislative spending in New York. To quiet public indignation, the Joint Legislative Committee on Legislative Methods, Practices, Procedures, and Expenditures recommended, and the legislature in 1945 quickly enacted, laws which itemized legislative positions giving the legislature better budgetary control, eliminated per diem payments, consolidated 13 separate appropriations for personal service into one section of the budget, and centralized in the legislative leadership responsibility for hiring and assigning employees. Other reforms called for by the Joint Committee's report, but not yet enacted, include consultation with job classification experts before preparation of legislative salary schedules, equal pay for equal work, promotion and transfers upon a job classification plan, and limitation of payment of employees to one source, although they may be assisting more than one committee. Internal controls over expenditures recommended were uniform accounting, centralization of expenditure records in the office of a legislative fiscal officer who should pre-audit vouchers, and legislative use of the regular centralized purchasing organization of the state.

Changes which have been made in the payment of legislative employees in other states are chiefly in the form of salary increases. A 1945 North Carolina law is indicative of some progress in employment practices, for it places the compensation of committee clerks on the basis of their qualifications. Other states have testified to their interest in keeping themselves

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staffed by raising the salaries of various employees of the house and senate. New York experience indicates that if the legislatures are to staff themselves as they deserve to be staffed, and are to do so without discrediting the whole idea in the public mind, proper personnel practices are quite as important here as in the executive branch.

A unique kind of legislative employee has been the regional representative of a legislator. In 1943, legislative offices were established in Los Angeles, San Francisco, and Alemeda counties, with each office under the management and control of the senator from the county.

Government might well take a lesson from the scientific cook-book on the importance of kitchen arrangements to production of good food. The importance of physical arrangements to proper functioning has never been given sufficient emphasis as a principle of good administration either in law-making or in the execution of law. The California report on the physical requirements of the legislature in the state capitol[26] presents a plan to rearrange space in the building, near the legislative halls, so that all of the agencies servicing them, such as the interim committees, the joint legislative budget committee, and legislative counsel may be physically related. Private offices for all legislators are suggested to provide suitable places for conferences with constituents and for handling other off-the-floor business. Provision of such space, plus a well-designed time schedule of legislative duties, would eliminate from the floor of the two houses much business extraneous to the legislative process.

Encouraging as are these changes that have been made in state legislatures in recent years, and seminal as may be the reports upon which some of these changes have been based, they are not enough. The legislatures in the commonwealths are so strategic in our whole scheme of government, affecting as they do not only the states, but also local government, national government, and the whole federal scheme as well, that even more fundamental studies must be made and more resolute action taken.

NEW YORK'S LEGISLATURE UNDER THE MICROSCOPE

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In these days of widespread dissatisfaction with legislative bodies, we are being presented with numerous studies on legislative improvement. One of the most interesting has recently been made by a special grand

[26] Printed in reports of the Assembly Committee on Legislative Organization, California, 1944.

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jury which investigated the New York state legislature.[1] Although the final presentment praises the "general efficiency" and "rectitude" of the legislature and concludes with the statement that "the general picture . . . is of earnest men diligently engaged upon a public task in an earnest manner," specific findings reveal serious laxities in the conduct of the state's legislative affairs. No doubt similar laxities may be found in most other states.

There are always rumors and whisperings as to evil goings-on in our legislative halls. The New York special grand jury did a real service in finding out their truth or falsity. It is of interest that neither the legislature nor the governor would, on their own volition, have considered such an investigation. We owe it to the fortuitous circumstance that Republican Governor Dewey and the Democratic political machine of Albany county did not like each other.

Shortly after his election, Dewey directed the state tax commission and the attorney-general to investigate Albany county, expecting no doubt to find evidence of criminal acts on the basis of which the career of the O'Connell political machine might be terminated. The O'Connells came right back by having the Albany county district attorney start an inquiry into the Republican-controlled legislature. But Dewey foiled this counter-attack by appointing Hiram C. Todd as a special prosecutor to supersede the county's district attorney in the investigation. Ostensibly, this action was at the request of the majority leaders of the legislature, who petitioned him on December 19, 1943, to appoint such a prosecutor in order to clear the air of the suspicions of the legislature aroused by the Albany county district attorney's investigations.

In accordance with the Governor's order of December 20, 1943, the grand jury investigated the subjects of (1) legislative expenditures, (2) improper conduct involving legislators, legislative employees and officers, and other persons having relations with them in their official capacities, and (3) allegations of criminal acts. The grand jury did not attempt to make an over-all study of the legislative process, but confined itself to those aspects involving, or likely to involve, criminal or distinctly unethical conduct.[2]

The grand jury held some 140 sessions and directly examined 377

[1] The printed findings of this legislative investigation are embodied in three documents filed in the Supreme Court, State of New York, Albany county, In the Matter of the Legislative Investigation, as follows: (1) "Interim Presentment by the Grand Jury of the Extraordinary Special and Trial Term," dated Albany, N.Y., Dec. 7, 1944; (2) "Second Interim Presentment," dated Albany, N.Y., May 4, 1945; and (3) "Final Report and Presentment," dated Albany, N.Y., October 24, 1945.

[2] Subsequently, the legislature set up its own Joint Committee to Inquire Into and Study Legislative Methods, Practices, Procedures, and Expenditures. An interim report containing significant data and recommendations, substantiating many of the grand jury findings, has already been followed by some legislative

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witnesses. Depositions under oath of more than 600 persons were taken. A total of 1,162 exhibits were introduced in evidence. Only one criminal indictment was handed up, and the legislator prosecuted by virtue of it was later acquitted by the trial jury. But, measured in terms of the light thrown on legislative expenditures, pay-roll control, and patronage, the grand jury was well worth while.

Legislative Expenditures. The grand jury early discovered that "certain grave improprieties and laxities surrounded expenditures made by the legislature," and therefore an intensive examination was made into this subject. As an indication of the sum involved, it is to be noted that $2,480,444.28 was expended in operating New York's legislative machinery in 1943.

While the state constitution limits the compensation of New York's 56 senators and 150 assemblymen to $2,500 each per annum, and while the law permits reimbursement to legislators for actual traveling expenses to and from Albany each week during sessions, it was discovered that additional compensation (totalling $56,000 in 1943) was being paid to a "limited number of legislators in lieu of detailed, itemized expenditures." These payments, referred to by the politicians under the facetious title of "lu-lu's," were justified to legislative disbursing officers on the theory that they were reimbursement for additional secretarial and clerical help. Peculiarly, this fiction was not accepted by either federal or New York state income tax authorities, or by the New York State Employees' Retirement System, all of which have treated "lu-lu" payments as compensation. The grand jury concluded that they were "in large measure a cloak for payment of additional stipends" to legislators in violation of the spirit, if not the letter, of the constitution.

Although difficult to ferret out, the grand jury found a few instances of legislative employees being forced to "kick-back" their salaries, or parts thereof, to the legislator responsible for their appointment. Penal statutes in New York prohibit such a practice in the case of employees in the executive department, but curiously legislative employees are not so protected. The grand jury recommended a penal provision to plug this loophole. Expense-account padding was discovered also. "Perfumes, ornaments, flowers, wearing apparel, theater tickets, airplane accommodations, World Series reservations, and other incidentals of gracious living have been paid for out of the public treasury of New York State," it was found, and "all of these fancy items were buried in drab, undescriptive, and highly deceptive words." It was recommended that greater care be taken in expense account control, and also in the supervision of allowances granted certain legislators for automobiles and telephones.

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action of a reform nature. Evaluation of the Joint Committee's work must necessarily await its final report. [While this article was in press, the Joint Committee filed its final report. See Legislative Document (1946) No. 31.]

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The grand jury pointed out that the burden of legislative office had become so great that it well might be questioned whether $2,500 was adequate compensation. However, it felt that the adjustment of compensation should be submitted directly to the people as a constitutional amendment, and decried makeshift evasions which, when brought to light, can serve only to impugn the integrity of the legislature itself.

However, the really glaring laxities found in expenditure practices involved the staffing of the legislature. In New York, in recent years, legislative payrolls have mushroomed. The grand jury found that "many employees are carried on legislative payrolls, not because their work is essential, but because the legislature has become a ready medium through which political debts are paid . . . the addition of names has provided little in the way of essential service. The fact is that legislative payrolls are padded . . . In the past twenty years, legislative expenses have more than doubled, with no commensurate return to the state."

The grand jury therefore recommended that the legislature make a survey to determine how many employees were actually needed, and urged that superfluous jobs be abolished. Should this be done, it predicted substantial savings, combined, paradoxically, with increased efficiency. The same pressures for over-staffing and padded payrolls exist in many other states.

Turning next to payroll practices, the grand jury found that legislative expenses were "channeled through a large number of separate offices, under numerous grants of authority, and with such a lack of centralized control as to leave loopholes for extravagance and waste." It was with great difficulty that the grand jury compiled from various sources and vague records a satisfactorily detailed report. Indeed, had it not been for federal income tax regulations requiring that reports of salaries be retained, the job would have been almost insuperable. A real shock is afforded by the almost unbelievable finding that "no complete, detailed report of its expenditures is ever presented to the legislature for its review or criticism, or for its information and guidance." As one cure for this bookkeeping confusion, the grand jury calls for the adoption of a single legislative payroll.

Other criticisms made by the grand jury were directed to the lack of adequate biographical data on employees, to the use of such terms as "contingent" expenditure or "maintenance" cost to conceal payments to individuals, to the diversity in pay periods (per diem, weekly, semi-monthly, semi-annually, or installment), to the payment sometimes by cash instead of uniformly by check, and to the allotment of substantial sums to contingent funds for withdrawal on authorization of the president pro tem of the senate, the speaker of the house, and the chairman of the committee incurring the expenditure.

On the latter point of contingent funds, an analysis showed that be-

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tween July 1, 1937, and March 31, 1944, the weekly disbursements from this source had been at a rate of just under $1,000 a week. The grand jury expressed "the opinion that many of the costs were predictable and should have been covered in the routine of budget appropriations." "Moreover," it added, "numerous contingent expenses were incurred, not to meet specific needs, but as matters of political expediency."

Finally, it was found that many legislative employees had other jobs, with consequent conflicts of interest and allegiance, resulting in the state getting but a "shabby share of its employees' attention and energies." Numerous seasonal employees were questioned on this matter of multiple employment and revealed that they had drawn their pay while "completely engrossed in their own affairs far from Albany." Some samples of their testimony follow: "I didn't do much of anything for the state" (received $1,000); "I only spent four or five days in Albany that year" (received $700); "I guess I didn't earn the money the state paid me" (received $800); "Well, anyway, I ran a few errands" (received $750); "I don't recall doing a single thing for that money" (received $1,000); "I just sat there and talked . . . If someone gives me a job and tells me to wait till they notify me to go ahead, and I just sit there for three months, what can I do?" (received $750). The grand jury emphasized that procedures should be adopted to assure that such seasonal employees earn their compensation during the period they are supposed to be working for the legislature.

Paradoxically, it was discovered that even career employees, whose primary source of income was from the legislature and who served the legislature year in and year out, were likewise multiple-job-holders. Sometimes the legislature itself would provide generously for such persons and camouflage the fact by paying them from several sources. Thus, according to the grand jury: "One employee whose line item salary was $4,000 testified that his gross annual emolument from the legislature was more than $10,000. Another whose line item salary was $3,000 actually was paid more than $7,000 a year." It was found, moreover, that other career-type legislative employees who were generously compensated from public funds were at the same time extensively engaged in private enterprises, particularly the practice of law. The grand jury recommended making adequate salary arrangements for the legislature's skilled, essential employees, to be set forth under a single salary item in each case rather than scattered through various payrolls under various sub-headings.

Employment Practices. The grand jury found serious abuses when it investigated the selection and supervision of legislative employees. Except for a small group of administrative positions centering around the clerks of the two houses, legislative positions in New York have been distributed purely on a basis of political favoritism, with no regard for continuity or high-caliber ability.

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Students of government have long decried political patronage in the selection of workers for the executive branch. The grand jury reveals that the evil is just as dangerous, though more often condoned, in the legislative branch. While many legislative appointees under this system are capable and conscientious, others are "manifestly incompetent . . . have low moral concepts of their functions . . . are the chiselers, the cheats, whose activities and inactivities tend to bring the legislative process into public disrepute."

In New York, the novice legislator runs into the patronage business as soon as he arrives in Albany. He is advised to ask the legislative leaders of his particular house to allocate an amount for his clerical and stenographic help. Some may have to rely upon a pool of general employees, assigned to no specific legislator, but subject to call by numerous legislators. Others may get full-time or part-time services of designated employees. Though patronage seems to be granted in larger amounts according to a legislator's years of service, no single principle governs, and "some legislators are permitted to designate a few employees while others may designate many."

While patronage is under party control, the custom in New York is to permit the minority party to designate a few employees in each house. On occasion, county political leaders foist employees upon legislative department heads, and sometimes, the grand jury found, "the names of specially-favored persons" are entered on the payrolls without their knowledge, so that compensation "comes to them like manna from the skies, to reward them for services they were not even aware they were supposed to render."

Nor has any classification scheme been worked out for the employees of the legislature. Janitors or chauffeurs, for example, may be carried on the payrolls as stenographers, at stenographers' pay; a doorkeeper may be listed as a clerk. Apparently the principle of "equal pay for equal work" has nowhere been more violated than in the field of legislative employment. The grand jury recommended that job classifications be immediately established, with compensation allocated accordingly.

Furthermore, there has been a failure to provide systematic employee supervision. While some employees are so prominent and their responsibilities so great that their malfeasance or non-feasance is readily observable, others "render small return or no return for the salaries they receive." Until the 1944 session, no official check was made on an employee's activities after his name was placed on the payroll. Though he rendered no services, his name stayed on the payroll, and he continued to draw his compensation. No doubt it was the spur of the grand jury investigation which induced the 1944 requirement that the employee and the legislator sponsoring his appointment formally certify as to the performance of services as a condition precedent to payment of salary. The grand jury

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recommended that this principle be embodied in a statute, not left to house usage.

One of the most controversial recommendations calls for the establishment of minima of aptitude and experience for legislative employees, to be determined by tests "similar in form to civil service tests." The grand jury found employee after employee who was obviously unfit, e.g., a stenographer who couldn't see; tax investigators who had no knowledge of taxation; assessment investigators who did not know the meaning of "assessment"; a cement pourer paid as an adviser on labor matters and qualified neither by education nor experience. Legislatures notoriously dislike the merit system, even for the executive branch; one wonders whether they will introduce the reform in the selection of their own employees.

A final point relates to official publicity of the names of the legislative staff. The New York legislature has annually published a booklet called the White Book, containing the list of its members, officers, and employees. Prior to 1945, this booklet conveyed the positively misleading impression that it contained a complete list of all officers and employees of the legislature; yet, in fact, in 1943 for example, less than one-quarter of such persons actually were listed. The grand jury commented: "It is apparent . . . that one of the principal reasons of the members of the legislature for avoiding the publication of the names of all of its employees is their desire to conceal the distribution of patronage. . . . Employment by the state is of public concern. The White Book should contain a complete list of the legislature's personnel." Is there anyone who would condone presentation of incomplete information under the guise of a full report? The whip of public opinion can help prevent widespread evils in legislative employment practices only if the facts are published in full.

The picture of the legislative process which the New York special grand jury has exposed is not a pretty one. Yet, that no criminal convictions have resulted is of some significance. Furthermore, in justice to the legislature it must be emphasized that in carrying out its directive to ferret out evil practices the grand jury naturally had no time to bestow praise where praise was found to be merited. In focusing attention upon and dragging up the "dirt" in legislative operations, such an investigation runs the danger of confirming the thoughtless citizen in his stereotype conception that all politicians are grafters and that politics is always a dirty business. Anyone who has dealt with American legislators, state or national, knows that the vast majority are fine, public-spirited men, working under trying conditions and with few rewards. At the same time, one may be pardoned for hoping that they will do something to put their legislative houses in order. The preservation of representative democracy depends on their buckling down to this task.

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RECENT VOTING BEHAVIOR OF SOME NATIONALITY GROUPS

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In continuation of a previous study,[1] the rôle of some nationality groups in the last three presidential elections has been investigated. Whereas the previous study was based upon political behavior by counties within eight states, the present work is based upon political behavior by wards within four cities. The cities were chosen because they contained large proportions of certain nationality groups, and because in these cities it was possible to order census tract material from the 1940 census by wards. Only four cities (Buffalo, Chicago, Detroit, and Pittsburgh) were examined because of limitations of time and expense. New York City is not included because of appreciable changes in the boundaries of Assembly districts between elections.

In order that a group be amenable to our procedure, it was necessary that there be proportionately great enough concentrations within wards so that the actual voting behavior of the group could possibly induce a shift in the election results. In this respect, it must be remembered that the proportion of foreign-born is usually about one-third of the total stock of any given group in the localities. Of the fourteen nationality groups studied here, therefore, not every one could be tested by our method.

Method. Data on the vote by wards within the four cities were available at the local archives of election statistics. In each community, it was ascertained that ward boundaries had not been changed since 1936 or, if there had been changes, that they were negligible. Detailed street maps showing ward boundaries were then carefully compared with census tract maps and a listing of the corresponding areas was made.[2] In each city, the census tract areas are much greater in number than the number of wards. This enables about 98 per cent of the census tracts to be fitted entirely into one or another ward. In the other cases, where ward boundaries cut through tract areas, a careful estimate was made of the approximate proportion of the population lying on either side of the ward line. From the final list of the coincidence between census areas and wards, the ac-

[1] L. H. Bean, F. Mosteller, and F. W. Williams, "Nationalities and 1944," *Public Opinion Quarterly*, Vol. 8, pp. 368–375 (Fall, 1944).

[2] The proportions of foreign born by nationality group were already worked out in Pittsburgh by the Federation of Social Agencies. The writer is indebted to Bertram Black, director of the Federation for these statistics. Jane W. Skinner, of the Buffalo Foundation, supplied a listing of the correspondence between census tracts and wards in Buffalo.

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tual numbers of the foreign-born of some nationalities in each census tract or part of census tract were drawn from 1940 census statistics to give the total population of these groups in each ward.

Fortunately, there is available a count by wards of the total foreign-born population, and in Detroit a count of the foreign-born *registered voters*. Table I shows that the distribution of the foreign-born groups assembled as described above is, for all practical purposes, identical with the distribution of actual voters in these groups. This fact neatly clears away problems in interpretation surrounding the query: "Can it be credited that the number of voters of any foreign-born group is distributed as is the total number of foreign-born?"

TABLE I

CORRELATIONS BY WARD IN DETROIT BETWEEN PER CENT FOREIGN-BORN OF TOTAL POPULATION (1940 CENSUS) AND PER CENT FOREIGN-BORN OF REGISTERED VOTERS (1938)

1940 Census	*Registered Voters**					
	Total foreign-born	Russia	Italy	England	Poland	Germany
Total foreign-born	.92					
Russia		.95				
Italy			.97			
England, Scotland, Wales				.98		
Poland					.995	
Germany						.94

* From an examination of 631,000 registration cards. Donald S. Hecock and Harry A. Trevelyan, *Detroit Voters and Recent Elections* (Detroit Bureau of Governmental Research, Inc., 1938, Report No. 150).

A quantitative measure of the degree of association between the size of a particular nationality group and the size of the political shift within each city was then prepared.[3] In each ward of Detroit, for example, the proportion of Germans was worked out and a table was prepared showing the difference between the percentage of the Democratic vote in 1936 and the corresponding percentage in 1940 and 1944. For this particular example, Table II shows that the measure of association is .68 in the 1936–40 period.

A positive figure represents the degree of association between the size of any nationality group and the shift in the vote against Roosevelt. When this figure is around zero, we say that there is no evidence of any

[3] This measurement was the ordinary Pearsonian correlation coëfficient.

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TABLE II

CORRELATIONS BETWEEN SIZE OF CERTAIN NATIONALITY GROUPS AND SHIFT IN DEMOCRATIC VOTE 1936–1940, 1940–1944, AND 1936–1944

	1936–1940				1940–1944				1936–1944			
	Buffalo	*Chicago*	*Detroit*	*Pittsburgh*	*Buffalo*	*Chicago*	*Detroit*	*Pittsburgh*	*Buffalo*	*Chicago*	*Detroit*	*Pittsburgh*
All foreign-born	.009	.13	.18	−.53	.18	.64	.56	−.41	.11	.42	.46	−.53
Eng., Scot., Wales	.24	.38	.54	.10*	−.36	.12	−.08	−.13*	.004	.32	.26	.03*
Eire		.02				.08				.04		
Sweden		.41				.08				.32		
Germany	.27	.59	.68	.61	.14	.20	.33	.42	.33	.50	.76	.59
Poland	−.72	−.26	−.27	−.54	.01	.37	.33	−.33	−.41	−.04	.08	−.51
Czechoslovakia		−.10				.20				.009		
Austria				−.04				−.09				−.04
Hungary			−.07				.20				.09	
Yugoslavia		.009	−.34			.22	−.05			.09	−.27	
Russia		−.11	−.27	−.37		.24	.01	−.58		.02	−.36	−.45
Lithuania		−.21				.26				.05		
Italy	.54	.11	.003	−.29	.09	.01	.25	.07	.53.	.08	.25	−.21
Canada-French			.82				.30				.67	
Canada—Other	.21		.63		−.50		.05		−.11		.35	

* Includes those born in North Ireland and Eire.

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association. When it approaches 1, we say that the association is very intimate; that is, the greater the size of any group, the greater the shift away from Roosevelt.

The residential patterns of three of the groups were examined also. From Table III it is clear that the Poles live in Democratic sections of each of the four cities. There is a tendency for Italians, too, to live in such areas. But the Germans undoubtedly live in Republican wards.

TABLE III

CORRELATIONS BY WARD BETWEEN PER CENT DEMOCRATIC VOTE (1944) AND SIZE OF THREE FOREIGN-BORN GROUPS

	Buffalo	*Chicago*	*Detroit*	*Pittsburgh*
Poland	.82	.63	.61	.66
Italy	.12	.24	.29	.18
Germany	−.27	−.48	−.34	−.35

Results. Dissidence within the total foreign-born population is marked in Chicago and in Detroit. A very decided shift away from the Democratic party occurred there in the 1940–44 period. In Pittsburgh, there is a slight tendency to the same movement, but the general tone of all the foreign-born there is stability, undoubtedly pro-Democratic in nature. In Buffalo, the foreign-born as a group seem to have voted much like the rest of the population.

Consistently in these four cities, the English have not moved back to their 1936 position. But after 1940 there was no intensification of the shift away from Roosevelt apparent at that time. Irish Free Staters, on the average, voted in Chicago as did the rest of Chicagoans. Swedish foreign-born in Chicago seem to follow the pattern of the English—a sizeable shift away from Roosevelt in 1940, but no further movement in 1944. Germans, on the average, withdrew support from the Democratic party in 1940 and again in 1944. However, the movement in 1944 away from Roosevelt was less marked than in 1940. Pittsburgh Germans are heavily Catholic and are, relatively, long-time residents. Whereas the Poles were as strongly pro-Roosevelt in 1940 as in 1936, there was a retreat in 1944—a retreat most apparent in Chicago and Detroit, and least apparent in Pittsburgh, while in Buffalo the Poles voted as did the rest of Buffalo instead of more Democratic as was their wont. Speculation about the ground for this change in voting behavior turns most frequently to consideration of the effect of avowed and feared intentions of the Russians in Poland. Czechoslovaks in Chicago exhibit, on the average, a negative tendency toward the Democratic party at the present time. Census figures present us with a group unfortunately conglomerate for this study.

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Throughout the period studied, Austrians in Pittsburgh did not go along in voting behavior with the Germans. No relationship can be seen with a shift from Roosevelt. Hungarians in Detroit show a pattern of behavior much like the Czechoslovaks in Chicago—a negative reaction toward the Democratic party over the period studied.

In both Chicago and Detroit, the Yugoslavs seem to have moved in the same direction (away from Roosevelt); but the movement took place at different levels. Starting from a neutral position, Chicago Yugoslavs revealed a tendency to vote against Roosevelt in 1944; in Detroit, the Yugoslavs moved from a stable pro-Roosevelt stand in 1940 toward political neutrality at the level of all Detroit. It is possible, of course, that contradictory movements may have taken place on the part of the Croats as opposed to the Serbs. It is not known that the foreign language division of the C. I. O. Political Action Committee operated in Chicago, as it did in New York, during the 1944 presidential campaign.

Russians in Pittsburgh were certainly no less pro-Roosevelt in 1944 than in 1940. However, a contradictory tendency seems, on the average, to have taken place in Chicago and Detroit, where the Russians appear to have abandoned a more solid pro-Roosevelt position than was characteristic of the cities as a whole. The complex structure of the group called "Russians" by the census must not be minimized. Only 18 per cent of those who claim to have been born in Russian name their mother tongue as "Russian" or "Ukrainian." But of all the foreign-born whose mother tongue is Russian or Ukrainian, 73 per cent report they were born in the U.S.S.R.

There is a high degree of probability that a real change occurred in the group of Lithuanian foreign-born in Chicago. This change is reflected, on the average, in a decided weakening of its pro-Roosevelt vote. By way of possible interpretation, the geographic position of the Baltic states can be recalled.

In 1944, the Democrats probably gained in Buffalo from a greatly reduced anti-Roosevelt shift in the 1936–40 period. But in Detroit the anti-Roosevelt shift among Italians seems to have occurred during this later period. In Chicago and Pittsburgh, the Italian foreign-born seem to have voted, on the average, as did the rest of the voters in these two cities.

French-Canadians were probably moving less strongly toward an anti-Roosevelt position in 1944 than they were in 1940. A remarkable reaction from an anti-Roosevelt shift in the 1936–40 period is observed in the 1940–44 years. Non-French Canadians in Detroit obviously supported the Democratic party more strongly than did French Canadians.

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FOREIGN GOVERNMENT AND POLITICS

THE PROSPECTS OF ENGLISH LOCAL GOVERNMENT*

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I

Periodically the reform of English local government makes its appearance in English public life. A Royal Commission sat for nearly the whole decade of the 1920's and its labors produced three reports, which ultimately led to the Local Government Act of 1929. Similarly, the 1939–45 conflict has raised again the question of what, if anything, should be done about the reform of English local government. In 1943, Mr. Churchill expressed the view of the Coalition that no major reconstruction of the structure was necessary, nor indeed could it be undertaken in the immediate postwar years. In January, 1945, Mr. Willink, Minister of Health, produced for public discussion a White Paper on the whole problem, the main burden of which was in line with the Churchillian dicta of 1943, but which proposed the creation of a boundary commission with power to recommend alterations in the status and areas of local authorities after suitable local inquiry. These proposals were debated in the House of Commons in February, 1945, with little significant difference of opinion becoming apparent on the fundamental problems involved. Before the end of the Coalition, a bill creating the Local Government Boundary Commission had passed into law.

The advent of a Labor government to power, the previously expressed views of the Labor party collectively and of individual members that nothing short of a radical reform of the structure of areas and authorities would suffice, and finally the pugnacious personality of Mr. Bevan, Minister of Health (which Department is responsible for general questions on local government), are all factors combining to pose the political question from a different standpoint. How far will the Labor government alter fundamentally the main lines of the Coalition's proposals regarding the reform of the structure of areas and authorities? It is proposed to concentrate attention primarily on the problem of areas and authorities, although this necessarily merges itself with the functions that local authorities perform. It will be recalled that the structure is built upon two bastions—62 county councils exercising wide functions in social services over areas, varying widely in size, population, and wealth, and 83 county boroughs which, within the area of their respective counties, exercise

* As of December, 1945.

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autonomous sway, performing all the functions given to English local authorities. In addition, within the county areas there are the district authorities (urban and rural) and the municipal (or non-county) boroughs which are under the general jurisdiction of the county council in respect to a certain range of functions, while exercising certain functions of their own.

II

To provide the basis of an answer to the problem raised, it will be necessary, first, to recapitulate briefly the proposals of the Coalition's White Paper,[1] the debate in the House of Commons (February 15, 1945), the contents of the act establishing the Boundary Commission, and, for the sake of convenience, the Regulations made by the Minister of Health under this act in November, 1945. Conscious of the increased burdens placed upon local authorities by the changing exigencies of war and by the proposed plans for the reconstruction and postwar expansion of the social services, the Coalition nevertheless did not feel that the time was opportune for a general recasting of the structure of local government because of the opposition such a prospect would undoubtedly arouse among the local authorities and because the necessary reform and expansion of certain services would be delayed by a full-dress inquiry into the structure of areas and authorities. Where particular services required a larger area of administration than could be provided by the areas of the present authorities (the Coalition had recognized public health to be a case in point), it was proposed to create joint boards or joint committees. To provide a mechanism for the adjustment of areas and of the status of certain authorities necessary in the present circumstances, a boundary commission was to be established "investing this body with powers embracing those of the county council and Minister of Health relating to county reviews under the Local Government Act, 1933. Further, the creation and extension of county boroughs and the union of contiguous county boroughs and also of some of the smaller administrative counties would be within the scope of the Commission."[2] The Commission would be subject to general directions by the Minister of Health; it would proceed to hold local inquiries on the application of a county council or county borough and upon direction by the Minister (e.g., the Minister may say that priority should be given to the problems of certain blitzed areas). Its orders would be laid before Parliament as provisional orders, but they would not be subject to review by the Minister, because this would entail delay through further local inquiry.

[1] Cmd. 6579, "Local Government in England and Wales during the Period of Reconstruction."

[2] Cmd. 6579, p. 12.

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In this way, "without disruptive change," it was proposed to secure the adjustment of areas and authorities necessary in the immediate post-war years in a quick, efficient, and tolerably just manner. Mr. Willink reached the heart of his case when he remarked in the Common's debate:[3] "I believe that it is of real importance to enable local authorities to make long-term plans with reasonable certainty that they will be able to carry them out without the disturbance which is caused by alterations of their areas at uncertain dates and times." Faced with the alternative of a Royal Commission charged with the task of examining the fundamental structure of authorities and areas and making recommendations at some future date in an *ex cathedra* manner, the Coalition, dominated by Conservative opinion, naturally decided against this alternative and put forward the lesser solution of the Boundary Commission, which could do a practical job of work within a measurable time, particularly with those small authorities of all types which clutter up the present structure. Along these lines the big authorities could perform their work practically without fear of disturbance (for they would not themselves ask to be disturbed). A typical Conservative case for "doing the work that's nearest" was put forward, which met with general approval from all parts of the House with the exception of Mr. Clement Davies, the present Liberal leader, who pressed for an immediate inquiry into the whole position. Significantly, Mr. Greenwood on behalf of the Labor party, after some preliminary word-play on the terms of the motion, remarked:[1] "But, on the other hand . . . , *if time had permitted, which it does not* [my italics], it would seem to be logical to make such changes in the system of local government as would enable the new responsibilities falling on local authorities to be properly discharged."[4] Generally, the House approved the main tenor of the Coalition's proposals, although the sectional interests and views of the various kinds of local authorities made their supporters in the House critical of parts of the proposals.

Effect was given to the Coalition's proposals by the Local Government (Boundary Commission) Act, 1945.[5] The Commission is given power to alter the boundaries of any authority; it can unite or divide authorities and can make a borough a county borough (although the act directs that this shall not be done unless the population of the borough exceeds 100,000); or it can revert a county borough to the status of a borough

[3] Hansard, 15th February, 1945, col. 424.

[4] *Ibid.*, col. 434.

[5] 8 & 9 Geo. 6., Ch. 38. Mr. Bevan announced in the House of Commons on October 24 that the members of the Commission were to be: Sir Malcolm Trustram Eve Bart, M.C., T.A., K.C. (chairman), Sir Evelyn John Maude, K.C.B., K.B.E. (deputy chairman), Sir George Hammond Etherton, O.B.E., Sir James Rees, and William Holmes. The Ministry of Health included £10,000 in its current estimates to meet the expenses of the Commission.

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(although, similarly, not unless the county borough has a population of less than 60,000).[6] The Minister can direct, or the council of a county or county borough can request, the Commission to look into a particular question. The Commission is bound to consider such requests or ministerial directions, and will do so by holding local inquiries in a manner laid down by the Minister in regulations. But the Commission has the final decision, subject to Parliamentary review, on what is to be done. In addition, it would appear that the Commission can make local inquiries and issue orders on its own initiative.[7] The Commission is not to consider altering an order made within ten years, in regard to a particular area or authority, unless the circumstances have substantially changed. The act finally lays down the general aims of the procedure which the Commission will follow and which the Minister will set out in detail by regulation.

Although the act states that "the Commission shall comply with any direction of the Minister that they are to give priority to any area or areas, or class of areas, specified in the direction," the Regulations[8] published in November make no provision in this direction. Essentially, the Regulations perform three functions: (1) They state that the object of all alterations in the boundaries of local-government areas is to insure individually and collectively effective units of local-government administration and, to achieve this object, some of the main factors to be taken into account are community of interest, development or anticipated development (which can be more easily estimated in these days of a planned economy), economic and industrial characteristics, financial resources in relation to financial need, physical features, population, record of administration, size and shape of areas, and wishes of the inhabitants. For the first time, let it be recorded, His Majesty's Government has committed itself to a statement of the factors to be taken into account in attempting to decide an optimum area of local government. Although not exhaustive, it will guide the Commission in its practical experience and should at the same time focus public discussion on what is admittedly a difficult issue. (2) If the Commission considers that more effective local government might be secured by a combination of local authorities for particular

[6] Within these limits, there will be 11 non-county boroughs eligible for promotion to county borough status and to county boroughs faced with the possibility of demotion to municipal borough status—a situation not likely to alter the number of county boroughs substantially.

[7] Clause 1 of the act establishes a Local Government Boundary Commission "charged with the duty of reviewing the circumstances of the areas" into which England and Wales are divided for local-government purposes "and exercising, where it appears to the Commission expedient so to do, the powers of altering those areas conferred by the following provisions of this Act."

[8] S.R.&O. 1945 104717, dated November 15, entitled the Local Government (Boundary Commission) Regulations, 1945.

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services, it can so report to the Minister and await his decision. (3) The Regulations lay down the procedure by which the Commission shall perform its functions.

Altogether, an instrument of considerable power and importance in English public life has been established quietly and with substantial agreement. While it is hoped and expected that this Commission will not incur the hatred and obloquy which a previous Commission acquired—the famous Poor Law Commission established after 1834 and dubbed by contemporaries the 'Three Bashaws of Somerset House'—it is considered that the Commission will do its work broadly in one of two ways: (1) Assuming the Minister issues only occasional directions, the Commission may in fact hold inquiries only upon receipt of directions from the Minister or of requests from the councils. (2) The Commission may decide to use a fair amount of the initiative it undoubtedly has to hold local inquiries on its own account in addition to the inquiries held under (1). These alternative courses of action represent differences of degree and quality; if the first conservative course of action is followed, then it is inevitable that only the most pressing questions (by far the most important of which is the status of areas and authorities in blitzed areas) will be dealt with positively by the conclusion of the Labor Government's first term of office, and the structure will remain the patch-work quilt that it is today. If the second is followed and the Commission makes full use of its powers (for it is equipped with teeth), a task may be performed which will surpass in range and quality the hopes of realistic people in Great Britain and elsewhere who have the welfare of English local government at heart. Under Clause 6(2) of the Regulations, the Commission can authorize any officer of the Commission or other person to hold inquiries, and thus several inquiries can be held at any one time—a circumstance which should speed proceedings. Although the first orders cannot be expected from the Commission until late in 1946, it will be necessary to keep their trend under continuous review so that the impact of the Commission's work upon the structure of areas and authorities can be determined.

III

If this is a fair summary of the historical background, the problem at issue can be examined along two lines. First, the Labor party throughout its history has had an intimate contact with the work of local government, and has always recognized its importance in the task of improving the social condition of the people. We can therefore examine briefly the history of the approach of the Labor party to the problem of local government. Secondly, the events in the whole field of local government since the formation of the Labor Government may give some indication of their future trend.

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The famous Fabian quartet—Sidney and Beatrice Webb, Bernard Shaw, and Graham Wallas—by their practical work in local affairs and by their voluminous writings crystallized the opinions of the early Labor party and of the Fabian Society upon a matter vital to the fulfilment of a Socialist program; for without an efficient and yet democratic system of local government, there could not be a proper development of the social services to accord with Socialist doctrine. The Webbs provided the intellectual content of the Labor party's case for reform by their tremendous researches into the history of local government extending for the better part of thirty years and by the famous Minority Report to the Poor Law Commission of 1908 which Beatrice signed and Sidney drafted.[9] The influence they wielded extended within the portals of the Central Government machine itself, as is shown by the acceptance at length in 1929 of the main recommendations of their Minority Report. Yet, as Margaret Cole argues in her recent biography of Beatrice Webb, they showed little practical realism in their positive proposals for the reform of English local government contained in their *Constitution for a Socialist Commonwealth of Great Britain*.[10] They advocated the abolition of the whole present structure and replacement of it with a common and approximately equal unit all over the country which they would call "ward," and which could be by means of joint boards or committees combined for the administration of services requiring larger areas. While the Webbs' own proposals may be said now to have lacked historical realism in suggesting the uprooting of every existing authority, and to have lacked precision in that they did not take account of the financial problems implicit in them, yet it need not be doubted that they imparted a sense of urgency to the discussion of possible lines of reform; and in their wake there were many voices in the inter-war years calling for the creation of regional authorities.

The rise of the Labor party to political power, particularly after 1918, resulting in the capture of councils in the municipal elections immediately after World War I, provided a leaven of practical experience to the theoretical discussion. For the few Mohammeds who could remove mountains with their rhetoric and dialectic, there came to be many followers who

[9] Thereby being threatened by the Treasury Solicitor with an injunction for infringement of Crown copyright, after the Webbs had decided to publish the Minority Report on their own account. Sidney was able, however, to draw the attention of the solicitor to a minute of My Lords of the Treasury, dated 1887 and never rescinded, in which My Lords had disclaimed any privilege of copyright monopoly over Blue Books, holding that the reprinting of them would be to the public advantage. See Margaret Cole, *Beatrice Webb* (London, Longmans, 1945), p. 103.

[10] *Idem*, p. 146, the main ideas of which, it is suggested (p. 114), flashed into Beatrice's mind when listening to a paper by H. G. Wells to the Fabian Society in 1903 on "The Question of Scientific Areas in Relation to Municipal Undertakings."

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had gained practical experience with the working of borough councils in London and the provinces, and who on occasion could be vigorous champions of the rights of local authorities and communities. It is by no means certain, for example, that a Labor-controlled London metropolitan borough would easily surrender its position in the interest of the reorganization of Greater London. The practical experience which Labor people gained in local councils provided, furthermore, a training ground for future statesmen in the field of central government; Clement Attlee and Herbert Morrison stand out here, and the valuable suggestion that members of Parliament should have several years' experience in local government before standing for Parliament comes mainly from Labor quarters.

An amalgam of the theoretical and practical roots of the Labor party's attitude toward local government gives the background for the pamphlet *The Future of Local Government* outlining the party's postwar policy. This rejects the creation of single all-purpose authorities operating over larger areas because such a scheme would not be suitable for rural areas. Instead, working along the path of historical development, "suitable machinery should be established by the Central Government to survey the country as a whole to determine the areas suitable for a regional or major authority adequate for the efficient performance of large-scale services, particularly those which need for their efficient and economical development considerable area, population, and sufficient financial resources . . . Within each region there should be established a suitable number of area authorities to administer the purely local services, and others delegated to it by the major authority. The size and number of the areas could be determined by population, rateable value (actual and potential), administrative convenience, and the balance of town and country." An attempt is tentatively made to suggest a suitable division of powers between the major and the area authorities.

This statement of policy, approved by the 1944 Conference, goes considerably beyond the scope of the Coalition's proposals and of the powers subsequently given to the Boundary Commission by law and regulations. In particular, the Labor party's "suitable machinery" would survey the whole country, whereas the Boundary Commission is likely to confine its attention to certain areas; the creation of the "major authority" would involve the disappearance of the county council and county borough as they are known today, a situation which the Boundary Commission cannot entertain and which indeed strikes at the root of the political problem in English local government. The status of and relationship between the county councils and the county boroughs constitutes, indeed, the major political problem of English local government, and Mr. Morrison himself stated in the Commons' debate that the Boundary Commission would not be able to propose the creation of a new type of authority. Further-

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more, he admitted that the case for establishing regional authorities is not as strong as it was. It would thus appear that the Labor Government is, in terms of its own declared policy, placed in something of a dilemma by its subsequent adherence to the Coalition's proposals—a dilemma which should delight the acumen of Mr. Morrison himself.

Whether the Labor Government will throw over its adherence to the Coalition's proposals may have been influenced by the developments since Labor assumed power in July. Undoubtedly the major event has been the municipal elections of November. These elections—the first to be held since 1939 and on a newly extended franchise (which is now the same as the parliamentary vote)—could confirm or deny the Labor landslide of July in the general election. To quote the *London Times* of November 1 (polling day): "The Labor party has conducted its campaign with confidence and determination. It is contesting all but 1,000 of the 8,000 vacant seats. It is striving not only to retain the 2,500 seats it already holds but to win 5,000 others. . . . At present it controls seventeen of the twenty-eight metropolitan boroughs in London and hopes to win several more. But in the rest of England and Wales it controls only fourteen of the eighty-three county boroughs and twenty-three of the 309 municipal boroughs. . . . It is not expected that the Labor party's success will be as sweeping as in the general election. Such a landslide cannot happen." The *Times* was somewhat cautious in its judgment of the outcome; for in the result the Labor party now controls 44 county boroughs, 59 municipal boroughs, and 23 metropolitan boroughs—a total gain of 72 councils, or one-sixth of the number of councils to which elections were held.[11] Since only one-third of the seats of each council were contested, the result may be held to confirm the trend of the electorate toward the left shown in July, and is the more encouraging to the Labor Government in view of the heavy successes in the big cities.

How far can the November results be taken as an augury of the likely trend next March and April, when the elections for the county councils and in the urban and rural districts are held? The Labor party may well receive a check to its advance at these elections because, first, its hold upon the smaller towns and the rural areas, although it has increased, is not so tight as in the big cities, and furthermore it is notorious that the apathy of the electorate in rural areas on the affairs of local government is much greater than in the towns. Thus the Labor party may find it difficult to make much progress in the next elections, although uncertainty is of the essence of the British electoral process, both national and local. If, however, only moderately successful at the forthcoming elections, it would appear, assuming the orderly progress of the Labor Government's pro-

[11] I am indebted to the Labor Research Department for this information. See *Labour Research*, Dec., 1945, for a full analysis of the results.

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gram as a whole, that the party can look forward with confidence to further success at the next municipal elections in November, 1946. If this prognosis is approximately correct, then the Labor Government can rely upon an increasing number of local councils in sympathy with its general policy—an essential factor in the success, for example, of its housing policy.

If the results of municipal elections were encouraging to the Labor Government, the affairs of local government have secured a quiet but continuous place in the Commons since July. Without attempting a catalogue, it will perhaps be sufficient to draw attention, for purposes of illustration, to Mr. Bevan's policy on housing, Miss Ellen Wilkinson's decision to reduce the number of schools receiving direct grants from the Ministry of Education, and Mr. Ede's bill to abolish the police forces of the non-county boroughs. Mr. Bevan announced that the Government intends to make the local authorities the main executors of its housing program. Besides acquiring the land for and building the houses, the local authorities will license such private building as is permitted, will license the conversion into offices, etc. of big unoccupied residential houses which could otherwise be used as flats, suitably converted, and will act as the adjudicating authority in the measures taken to combat excessive rents for furnished accommodation. These arrangements make the local authorities (except the county councils) the lynch-pin of the housing drive. After announcing in August that the school-leaving age will be raised to fifteen as from April 1, 1947 (the last date provided for in the Education Act, 1944), Miss Wilkinson has been under brisk fire on two issues: provision of the requisite number of teachers and the position of the direct-grant schools. The first is rather an intractable problem and progress slow but, it is hoped, sure. On the second matter Miss Wilkinson has shown the temper of her steel as a minister. The direct-grant schools are those which have elected under previous regulations to receive grants direct from the Ministry of Education instead of the local education authorities, which are in turn aided by the central department. The Minister has adopted, the rather stringent principles suggested in the Fleming Report as a basis for determining the eligibility of schools for direct grants in the future, with the result that many famous schools have been faced with the withdrawal of direct-grant facilities and now confront the dire prospect of surveillance by the local education authority. A considerable rumpus was raised in the Commons, but the Minister stood her ground, reminding the opposition that she, and no longer Mr. Butler, is in charge of education policy. Mr. Chuter Ede's bill abolishing the non-county borough forces by bringing them under those of the county was generally an unpretentious affair, although members could not quite understand why such a bill should be introduced in a time of great legislative activity.

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Bigger events have cast their shadows before them. At the date of writing, it had been announced that the National Insurance Bill would be presented probably before Christmas, 1945—twelve months before its previously anticipated date. If adhering to the proposals of the Beveridge Social Security Report, this bill would profoundly affect the position of the county councils and the county boroughs in regard to their public assistance functions; assistance for "out-relief" cases would almost certainly go to the central government, and possibly the responsibility of these authorities for institutional relief would be reduced, if not abolished, especially if the rate of old-age pensions should be increased.[12] The impact of these changes upon the complex financial problem of local government would be considerable. Mr. Bevan has announced that the Government is looking at the eternal rating question; and meanwhile, pending the establishment of a new block grant, a bill has been produced giving an interim supplementary grant of £10–12 millions per annum to local authorities. Finally, a leakage in the press announced that the cabinet had decided in principle that the voluntary hospitals should be nationalized. From the guarded way in which Mr. Attlee answered questions in the House of Commons, it is possible that the leakage was not without foundation; if there is a decision to nationalize the voluntary hospitals, Mr. Bevan, as Minister of Health, has a major task on his hands to prepare and present the Government's proposals on the health services in a way which will carry the substantial agreement of the interested parties, the doctors, the local authorities, and voluntary hospitals.

IV

It is time to draw conclusions from the evidence surveyed. In view of the ever-present danger of introducing one's personal views on the way in which events ought to go into any attempted estimate of how they will go, it is proper to state that only published information, along with a general sense of how English people conduct their government, is the basis on which conclusions are here reached.

On this basis, certain facts stand out. First, the Boundary Commission is established and Mr. Bevan as Minister of Health has produced the necessary Regulations to guide the Commission in its work. It seems, therefore, incumbent upon the Minister of Health and the Government to let the Commission have a fair chance to do a useful job on the terms and conditions laid down; and the view has been expressed above that the Commission may well do a surprising amount of good work, given the opportunity which it has, and sufficient time. To reopen the fundamental

[12] Mr. Bevan, in the House of Commons on November 30 (Hansard, 30th Nov. 1945, Col. 1795) said that the poor law burden would be taken away from local authorities by the new National Insurance Bill. It is not clear whether this would cover institutional relief, on which the Beveridge Report was vague.

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question of reform (which would mean that the creation of new types of authority over much wider areas would have to be examined) would imperil what chances the Boundary Commission has of doing any good work within the confines of the old structure. Although Mr. Morrison in another connection playfully hinted that the Labor Government would break many precedents in its term of office, it is extremely unlikely that it would immediately throw into the melting-pot an authority but recently established on a legal basis. The possibility must not, of course, be excluded that the Minister himself will take an active interest in the work of the Commission, issuing many directives on the particular questions it should examine. With the possible exception of blitzed areas, it is suggested that the status of particular areas and authorities is not ordinarily one for ministerial initiative and action; it is more likely that regulations on particular areas will be of departmental rather than ministerial origin. As such, there would not be many regulations on this type of question, and thus the course of action of the Boundary Commission may partake of a nice mixture of requests from local authorities, directives from the Minister, and exercise by the Commission of its own initiative—a conclusion which, given the fact that Mr. Bevan is a busy man with all the affairs of local government as well as the housing program on his hands, seems inescapable.

Second, as Mr. Bevan himself suggested in the House of Commons on November 30, there are many other problems on local government needing decision and action, e.g., rating and the differing standards of valuation adopted by different rating authorities, the calculation of a new formula on which the distribution of government grants should be based to replace the block-grant formula of the 1929 Local Government Act, and the impact of increased services which are likely to operate in the near future upon the financial standing of local authorities.

Third, the objective of English local government may be redefined in the coming years. The Regulations published in November, 1945, confine their attention to the need "to ensure individually and collectively effective units of Local Government Administration." This is an admirable objective in itself, but, in the wider context of an attempt by the central government to obtain for the mass of the people a common standard of social well-being, the cry may be raised for common and more equal standards of expenditure on local government services throughout the country. The work of Professor Hicks[13] has pointed the way in this direc-

[13] The work of J. R. and U. Hicks is quite the most fundamental published on English local government during the war. Their *Standards of Local Expenditure* (Cambridge University Press, 1943), *Valuation for Rating* (C.U.P., 1944), and *The Incidence of Local Rates in Great Britain* (C.U.P., 1945) constitute a body of work indispensable to present and future students of English local government.

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tion. In his *Standards of Local Expenditure*, he has shown that among the county boroughs (the richest class of English local authorities, since they comprise the majority of the industrial cities) there are broadly six different levels of expenditure per head of the population (taking income from local rates and from government grants together) on all services, the difference between the highest and the lowest being surprisingly large. If these researches are continued with an examination of the standards of services performed by the counties (and within each county the services maintained by the municipal boroughs and urban and rural districts), it is probable that the wide disparity revealed for the county boroughs will be more than matched in the counties, considering that the counties are generally poorer than the county boroughs.

It is suggested, therefore, that the final structure of areas and authorities of postwar England will differ profoundly according to the objective which is adopted, consciously or otherwise, for local government in the postwar period. Further, the way in which the desired objective can be achieved will in fact be dependent upon the refashioned pattern of services and in part upon the solution to the financial problem which is found or avoided. The position on the latter problems may be fairly clear within two or three years, and, if so, the case for a thoroughgoing inquiry into the whole problem of areas and authorities, based upon the work and experience of the Boundary Commission, will by then have matured.

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INTERNATIONAL AFFAIRS

THE UNITED NATIONS AS VIEWED FROM GENEVA*

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The United Nations Organization is an essentially American product, as the jeep or the atomic bomb. Conceived at Dumbarton Oaks near the American Capitol, inspired by American ideas, born under American chairmanship on the American West Coast, having decided on a permanent site in America, it is even endowed with an American surname. In fact as in word, there would be no United Nations were there not a United States.

It is therefore very generous of an American body to ask me, as a foreign visitor to your shores, what I think of this American product. But it is correspondingly embarrassing for me to attempt to tell you. When one is invited out to dinner, it hardly does to comment, except in terms of the highest enthusiasm, on the cuisine of your host or on the beauty of his daughter.

Your invitation to this intellectual feast therefore obliges me to choose between politeness and sincerity. As I am speaking here at your request, not in any diplomatic capacity whatever, but solely as a friend among friends and as one man of science to a host of academic colleagues, known and unknown, I unhesitatingly opt in favor of complete frankness. I venture to trust that our common ideals of scientific freedom will assure my impunity from any reproach of indiscretion or of impertinence.

I

Before describing the international view as seen from Geneva, may I be allowed briefly to define the point from which it is observed. Geneva is, first, a city in the heart of Europe. It is, second, a city in small and traditionally neutral Switzerland. It is, finally, the seat of the League of Nations. The new organization is therefore to be judged from the point of view of the old and of a neutral European country.

Now *Europe* is a small but very densely populated continent. Long the hotbed of international conflict, it was the birthplace of the two successive world wars which are the real parents of the two successive organizations for the maintenance of peace.

Europe is densely populated not only by individual human beings, but also by so-called sovereign states. Without burdening this paper with any

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demographic statistics, I will venture to call attention only to two outstanding facts, which seem particularly relevant to our present discussion.

The first is that, of the eight Great Powers existing on the eve of the First World War, six were European. Of these six European Great Powers, only three—Great Britain, France, and Italy—emerged victorious from the First World War; but all of them, except dismembered Austria-Hungary, maintained or shortly regained their status as Great Powers in the inter-war period.

Today there are nominally only five Great Powers left in the world, and only three in Europe. In fact, however, there remain only two or at most, three, states which are in a position to exercise any decisive influence over the destinies of mankind. And of these two or three truly Great Powers, one is American, another is half-Asiatic, and the third is essentially maritime and therefore foreign to the continent of Europe.

Europe is therefore, for the first time since the origins of the history of civilization, deprived not only of the world domination she has long exercised abroad, but even of a truly European leadership at home. The former master has become the servant of the outside world. Such is the price he has paid for the criminal folly of the two world wars, of which he was both the principal author and the chief victim.

The same, most significant fact is reflected in the composition and, of course, also in the seat of the new world organization. Of the twenty-eight sovereign states which constituted the political population of Europe on the outbreak of the Second World War, three have forfeited even their nominal independence, nearly ten others have at least temporarily forfeited their real independence, and twelve, that is, about half of the total, are not as yet members of the United Nations. To view the United Nations from Geneva is therefore to see them from a continent which has so little influence over the new organization that it in fact feels almost foreign to it.

This is particularly true of Switzerland, which had been especially intimate with the League of Nations. This intimacy was due to geographical propinquity, and also to the referendum which, in 1920, preceded Switzerland's adherence to the Covenant. Thanks to the long campaign which preceded the vote, her population had probably become more familiar with that document than had any other nation.

At present, Switzerland is indeed doubly foreign to the United Nations. She is foreign, first, because, as all other states which were not drawn into the late war, she is not yet welcome to the circle of the self-styled "peace-loving" belligerents who created and who alone compose the new organization. But she is foreign to the United Nations also because her people, having been independent for over 600 and neutral for the last 400 years, are more attached to their independent neutrality than ever before, and

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because the Charter of San Francisco was deliberately framed so as to exclude independent neutrals from the ranks of its signatories and adherents.

As for Geneva itself, it is not only a European and a Swiss town. It has long been and still is the seat of many international organizations. Of these, the League of Nations and the International Labor Organization were, of course, by far the most important. While feeling somewhat alien to the United Nations as European and as Swiss, Geneva is therefore particularly interested in the new organization as the closest witness of the activities of the old. The attitude of Geneva toward the United Nations is thus perhaps not quite identical with that of the rest of Switzerland. Apart from considerations of economic interest, which may play their part in shaping public opinion, the city of Calvin and Rousseau is, for ideal and sentimental reasons also, probably sadder than the rest of the country over the turn of events which has led to what might be called the de-Europeanization or Americanization of the organization of peace.

These introductory remarks should suffice to explain why, when espied from the European, Swiss, and local observation point of Geneva, the United Nations nymph appears less glamorously attractive than she did to her closer admirers on the sunlit beaches of California where she was born, or than she does now that she is more tediously engaged in going to school in New York and in house-hunting in the apparently not all too hospitable vicinity.

But if the point of view of Geneva is undoubtedly critical, it is not in the least unsympathetic; still less is it envious. We Europeans, Swiss, and Genevese would be truly unforgivable if, fully conscious as we are both of the terrible difficulties and of the supreme importance of the task assumed by the men of Dumbarton Oaks, of San Francisco, of London, and of New York, we should fail to bid them Godspeed and to offer them whatever little assistance our enfeebled resources allow us still to render the common cause of international peace and good-will.

II

It is, of course, out of the question here to subject the 111 articles of the Charter to a critical analysis and point by point to compare them with the corresponding provisions of the Covenant. Rather would I like to call attention to what strikes me as the all-important origin of the new organization and to indicate the chief traits which, as I see it, are the logical and indeed almost inevitable consequences of that origin.

The United Nations Organization was born of and during a great war. The founders of the organization were both the initial, pacific victims of, and the final, complete victors over, the bellicose foes whose wanton aggression had obliged them to fight in self-defense. The war itself had

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broken out after the collapse of the League of Nations, set up a quarter of a century ago for the maintenance of peace. Such, in my eyes, are the fundamental facts which explain the characteristics of the new organization.

Now what are these characteristics? Let me stress but three of them. The first is the composition of the United Nations. Born of and during the war, this composition was naturally limited to the victorious Allies. How indeed could it have been otherwise? Neither the as yet undefeated enemies, nor the unwelcome and unwilling neutrals, could have assumed the dignity and the name of the United Nations. United in war, these nations intended to remain united in the peace which they felt bound to impose on belligerents and neutrals alike. What the Allied and Associated states had been in the first world war, the United Nations were in the second. But whereas the Allied and Associated states in 1919, on the morrow of the armistice, felt impelled to create a pacific League or better, Society of Nations, the United Nations in 1945, on the eve of the armistice, decided to remain united to protect themselves and, only quite incidentally, the rest of the world against any possible new aggression.

The second consequence of the belligerent origin of the United Nations Organization is, in my eyes, its hierarchic structure, its authoritarian spirit, and the unpacified and militant character of the most significant provisions of its Charter. In war there is and there can be no equality of nations. The powerful command and the weak obey. The position of belligerent allies on a battlefield is comparable to that of the crew and passengers on a shipwrecked vessel. The vigorous, if they are generous, do what they can to save their feebler fellow-victims, but, if they are intelligent, they neither heed the protests of the latter nor do they seek nor take their advice.

That is why the San Francisco Charter, drafted as it was by belligerent allies before the end of hostilities, much as it speaks of the "sovereign equality of states," violates that principle to a degree unknown in all previous annals of international law. It not only distributes influence according to importance, as does the United States Constitution, for instance, by granting to New York more representatives in Congress than to Nevada, and as did the Covenant of the League of Nations by recognizing the privileged position of the permanent members of the Council. But, what is much more debatable, the Charter further creates two distinct sets of rights and duties. It, in fact, places the five Great Powers above the law laid down for the others, a procedure for which there is, to my knowledge, neither precedent in the law of nations, nor analogy in any liberal national constitution. Not only is the international aristocracy of the powerful recognized as such in the Charter and endowed with al-

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most unlimited authority over the underprivileged masses, but its individual members are assured of almost unlimited impunity in case of violation of their pacific covenants. It is indeed open to serious speculation whether any but the five great members of the United Nations can still be held to be free nations, inasmuch as all the others have surrendered the right of peace and war into the hands of a body on which all but six of them enjoy no representation.

This is as much as admitted in the recently published, very useful commentary on the Charter by Messrs. Goodrich and Hambro. Discussing Article 24, they truly write: "This provision, taken in conjunction with the provision of Article 25, results in the relinquishment by certain members of the organization of a considerable amount of their freedom of action, since they agree in advance to be represented by and to be bound by the decisions of a body on which they are not necessarily represented and over whose decisions they have no effective control. This is, of course, not true of the permanent members of the Security Council."

The supreme authority of the Security Council is, to be sure, limited by the absolute and unqualified sovereignty of its five permanent members. It is therefore not cynicism, but only clearsightedness, to note that the freedom of the under-privileged members of the United Nations is conditioned by the disunity of their privileged masters.

It would appear, moreover, that in exchange for the vital rights of sovereignty the small United Nations have surrendered into the hands of the Security Council, they have received in return no real guarantees of enhanced safety. To be sure, they are promised effective protection against aggression, but only against such aggression as would neither be willed, nor encouraged, nor at least tolerated, by any one of the five Great Powers. Now, is it not obvious that the dangers so provided against are as imaginary, or at least as unlikely, as are real and, alas! not too improbable those perils to which small states remain exposed by such aggressive action as may be undertaken with impunity, not only by any one of the Great Powers, but by any other state with the approval, or even without the expressed and active disapproval, of any one of the Great Powers?

This further very characteristic weakness of the security system set up under the San Francisco Charter would hardly be comprehensible were it not for the belligerent origin of that strange document. Allied together in a common struggle against a common foe, the United Nations were obviously as ill-prepared to consider any danger other than that by which they had been threatened and with which they were successfully dealing, as they were ill-disposed to conceive of the treasonable possibility of any armed conflict among themselves. But natural as are the relevant provisions in a treaty of defensive alliance drafted in the course of a war, they

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would hardly seem sufficient to establish and to maintain security in an enactment intended for the pacific organization of the international community as a whole.

That is why also the Charter, voluble as it is on the subject of collective security and of international arbitration, is almost mute on that of general disarmament. In 1919, such disarmament was looked upon both as the price to be paid for, and still more as the great prize to be collected after, the effective organization of peace. In 1945, such a goal was obviously held to be too distant and too uncertain to justify any dangerously premature consideration of collective disarmament.

Viewed in the perspective of history, the reduction and limitation of national armaments, even if it is not a condition of, is assuredly a most faithful index to, international security. If that is so, then the San Francisco Charter, by its very discretion on that vexed issue, is evidence of the lack of confidence felt by its authors in its protective virtues.

The last point on which the Charter of the United Nations would seem to reflect its belligerent origins is that of its relation to the Covenant of the League of Nations. The Charter was born of a war which the Covenant had failed to prevent. Hence the distinctly, and often even aggressively, critical attitude of its Californian drafters towards the work of their Geneva predecessors. But as the Covenant was in fact the product and the expression of much political wisdom, and as the experience gained by the League was not lost upon its often well-informed but somewhat ungrateful successors, they were led on many points to emulate and to imitate, but were ever loath to copy, its provisions. Thus the Assembly of the League became the General Assembly of the United Nations, the Council of the League, the Security Council and the Social and Economic Council of the United Nations, the old Permanent Court of International Justice, the new International Court of Justice, and the discarded and discredited Mandates System, the novel, much more ambitious but perhaps less really promising International Trusteeship. Was it not, in part also, for similar reasons that Geneva was spurned by those whom Westchester county seems so uncertainly impatient to welcome?

There is nothing in these developments to surprise, still less to arouse the indignation of, the philosophical student of human affairs. It would be misleading, however, and therefore unfortunate and possibly even mischievous for the future, if the idea got abroad that the League of Nations had succumbed to the imperfection of its Covenant and that the United Nations could be expected to thrive on the superiority of their Charter. Would it not be far truer, and not really paradoxical, to say that, in so far as the Covenant can be held responsible for the downfall of the League, it was by reason of its virtues and not of its shortcomings? Had the Covenant provided for the unrestricted freedom of action of the Great

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Powers, that is, in fact, for the impunity of all dangerous aggressors, it would assuredly have been an inferior document. But had it been so, President Wilson might have been spared the opposition of the Senate and the United States, by joining the League, might have spared itself and the rest of the world the horrors of the recent war.

One all-important fact should be stressed in conclusion: the international community, no less than the states which compose it, should be judged on its policies much more than on its constitution. Now there is no doubt that the League of Nations failed to live up to the standards of its Covenant, whereas in its initial stages the United Nations rather seem inclined to rise above those of their Charter. There lies the great hope of the future.

As the late President Lawrence Lowell used to say, hypothetics, that is, speculation as to what might have been, is an intellectual pastime as vain as it is captivating. What is far more certain than conjectures about a past that was not, is that today no international organization for the maintenance of peace can hope to succeed without the active leadership of the government, and without the eager support of the people, of the United States of America. If in order to secure this American coöperation, it was necessary to recognize the exclusive right of Great Power veto and thereby to legalize the sovereign inequality of nations, then these sad blemishes on the San Francisco charter may still prove to have been blessings in disguise. For peace can survive that right, if it be not exercised, and that iniquity, if it be soon abolished. But what world peace could not survive would be American isolationism, that is, indifference to the fate of mankind on the part of the most powerful of the liberal, and of the more liberal of the two most powerful, nations of the world.

Such, viewed from Geneva, is the mission, the responsibility, and the unique privilege of this country. Such is the message which I venture to bring from the oldest to the greatest of living democracies.

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INSTRUCTION AND RESEARCH

RESEARCH IN PUBLIC LAW: REPORT OF THE PANEL ON PUBLIC LAW

COMPILED BY CARL B. SWISHER
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The Panel on Public Law is one of a number of such organizations which came into being under the auspices of the Committee on Research of the American Political Science Association. Its purpose is to survey research in public law as now conducted and to give such guidance to methods and areas of future research as is possible and as the members think desirable. Since the date of its organization in the summer of 1942, the Panel, with a somewhat fluctuating membership, has exchanged ideas through extensive correspondence. On September 9–10, 1944, it met in Washington for more detailed discussion and sharing of opinions. It met again in Philadelphia on March 29, 1946, pursuant to the program of the annual meeting of the Association.[1] The range of opinions and attitudes has proved very wide. It reflects a high degree of individualism in the field—the result, no doubt, of differences of initial training and experience and habit of mind, and also, perhaps, of the comparative isolation one from another which characterizes the working conditions of the representatives of the field. The correspondence and the oral discussions already held have dealt with too many problems to make possible a report of widespread agreement. The following pages of summary, therefore, represent, not a statement of findings agreed upon, but rather statements of the trends of thought which have been presented with varying degrees of vigor in the letters and oral comments of varying numbers of members of the Panel. They are offered, not as group conclusions or official recommendations, but as suggestions for further thinking on the part of the Panel and other members of the profession. Where important differences occurred, they will be noted as themselves constituting a challenge to further research and analysis.

The Panel encountered initial difficulties in the way of harmonious

[1] The following persons were present at one or more sessions of the conference held in Washington: William Anderson, Ben A. Arneson, Robert K. Carr, Robert E. Cushman, Marshall E. Dimock, Oliver P. Field, Ernest S. Griffith, James Hart, Charles S. Hyneman, Earl G. Latham, Harvey C. Mansfield, Joseph McLean, C. Herman Pritchett, Carl B. Swisher (chairman), and Benjamin F. Wright. The following additional persons have participated in correspondence: Charles A. Beard, Kenneth C. Cole, John Dickinson, Charles Fairman, Charles G. Haines, Robert J. Harris, Karl Loewenstein, Alpheus T. Mason, John M. Mathews, and Spencer D. Parratt. Unfortunately, no adequate record was made of the persons in attendance at the meeting in Philadelphia.

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thinking in characteristic indefiniteness and lack of agreement as to what is meant by the title of our field, namely, "Public Law." Some members use the term as if it were synonymous with constitutional law, and then speak of both public law and constitutional law as if their content were limited largely to opinions of the Supreme Court. The tendency toward an inadequate conception or an over-restricted use of basic terminology persists and seems to affect the thinking of participants, even though, when definition is attempted, every member agrees that more territory is included than is generally held in mind when "public law" is discussed. The Panel members have hesitated to engage in a prolonged effort toward the definition of terminology because of awareness of the futility which often characterizes such attempts. They know that definition is often a device for substituting memorization for thought and that undue subservience to definition often leads to the frittering away of time and energy in undue preoccupation with boundary lines. They believe that research should proceed in terms of topics and should follow the topics wherever they lead, largely without reference to the boundaries of academic fields. Most of the considered attempts at definition, therefore, have proceeded, not in terms of detailed analyses of content, but rather in terms of lists of subjects to be included or areas to be explored One of the definitions offered reads as follows: "For purposes of this inquiry, public law should be defined by the process of inclusion and exclusion. It should comprise constitutional law, administrative law, the law of municipal corporations, and such courses in labor law and the law of the regulation of business as are finding their way into the curricula of American colleges and universities. I see no advantage in trying to formulate a theoretical definition of public law by isolating its distinguishing characteristics." Others have submitted statements varying somewhat in the lists of subjects included, but they seem to agree in large part as to the lack of advantage in trying to formulate a theoretical definition of public law by isolating its distinguishing characteristics. They would probably agree with the comment of a member that public law is coëxtensive with constitutional government, but their agreement might well turn on the fact that the comment is conveniently vague.

It was only after oral discussion was well under way that talking at cross purposes disclosed the need for closer agreement as to the use of terms or, at any rate, for more precise disclosure of individual meanings in the use of terminology. Although the Panel has not reached agreement in the matter, it has struggled with the task of analysis. In the course of discussion, members of the Panel have harked back to conventional definitions and have called attention to the fact that public law reaches throughout the entire realm of rules and regulations which give power to and restrict the activities of governmental agencies. In this connection

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they would emphasize the fact that a creative approach to public law requires analysis of the giving of power rather than exclusive preoccupation with those things which law forbids. One member stresses the fact that public law is both a method and a subject-matter field. As to method, he suggests that the defining term is "legal." As to public law as a subject-matter field, he finds that that field is predominantly the judiciary; how firmly he would restrict the field to the judiciary is not clearly disclosed by the record. Other members insist that the judiciary is by no means the entire province of public law, but rather that the field includes the making and interpretation of rules for the guidance of the conduct of governmental agencies, wherever those rule-making and interpreting processes take place.

One member believes that the absence of clear conceptions of the basic characteristics of our field is explained in part by the fact that we seem to have lost awareness of the basic substructure of law which underlies any governmental system. We need to keep in mind the essentials of a good course in principles of jurisprudence. Explanations of the reasons for our loss of awareness of the basic substructure of law, if indeed we have lost it, are various and fragmentary. There is some suggestion that individual members have been too deeply engrossed with analyses of particular judicial decisions or lines of decisions or with particular judicial personalities to relate their sub-fields of specialization to the essential aspects of the broad field of public law. Perhaps we have been too obsessed with the rapidity of governmental change in the course of our current experience to be able to comprehend the relatively stable legal structure which is assumed to lie behind that experience. Perhaps we have been too much impressed with superficial generalizations in the field of public administration, which is characterized oftentimes by lack of respect for law and by scorn for precedent. At any rate, whatever the reasons for the current state of our thinking, a number of members of the Panel are convinced that some hard thinking about the essence of our subject-matter would have great value for our profession.

Some members of the Panel take the position that effective work in public law requires broad grounding in political theory and that ineffectiveness of teaching and writing in the field are often to be explained by lack of such grounding and by lack of concern about fundamentals. One member, for example, insists that mature scholars in the field must know where they stand with respect to essential values: "I think that any student of public law who has grown up ought to make up his mind whether he values what I call democracy and how much he values it. Similarly, he should determine whether, and how much, he values (or most people value) certain other things which are very important. When he has made up his mind on these things as fully as he can, then his writing

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and teaching in the field of public law should show the relation of constitutional and other fundamental understandings and ways of acting to these things which he has decided he (or most people) value. If a man has not made up his mind as to what he thinks of representative assemblies as policy-making agencies, I do not see how he can write intelligently about judicial control of constitutionality. I have an idea that our neglect of the study of state constitutional law is due in large part to the fact that very few, if any, American political scientists have made up their minds as to what they think is good in the matter of dispersing political power as against concentrating it in the national government."

Another member stresses the necessity for revitalization of political theory, particularly as it relates to conceptions of liberty. He finds that the theory now in vogue in that field is barren, outdated, and pitched on an abstract and superrationalistic plane. He suggests the need for a reclassification of different liberties in terms of common sense categories. The fact that theory in any field may be a rationalization of the desires of the theorists must not be permitted to obscure the importance of theory as basic to an understanding of law.

One member suggests that the failure properly to integrate even judicial materials in terms of an adequate body of theory may be the product of over-preoccupation with the judiciary, as a result of which there has been a general failure to go beyond technically judicial conclusions. Certainly, says another member, students of public law, in addition to mastering judicial interpretation of the rules of law, should make a continuing study of the traditional quest for certainty in law as it clashes with changing conceptions of justice.

Insistence on the importance of political theory as a basis for public law is accompanied by warnings that theory, to be of value, must be "realistic"—must grow directly out of the stuff of law and politics. Members have voiced sharp criticisms of the abstractness and mysticism, of the apparent lack of relation to actual operations of government, which characterize much of the work of German political theorists—work which during the past century has been highly influential in some quarters in the United States. Similar objectionable characteristics are found in such works as *Political Science and Comparative Constitutional Law* by John W. Burgess, *The State* by Woodrow Wilson, and the more abstract writings of W. W. Willoughby—whose work, however, has warm defenders on the Panel.

The initial steps toward organization of the Panel on Public Law, with the avowed purpose of giving some guidance to research in the field, provoked varying reactions as to the possibility and desirability of attempting such guidance. One of the men consulted took the following position: "I've always been very skeptical—to say the least—of any

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ambitious scheme for blocking out needed research to be done by others, especially in the field of constitutional law. Real research there is still in its infancy—the canons of scholarship are not firmly set—we are not agreed on what is significant or how to go about our investigations. My feeling is that for a good time to come it is better for every man to do his own best on what he thinks important. It will take considerable time to make sure what sort of inquiry has lasting value." Another member asserts that the directions of his own research in years past have been determined largely by accident; he believes that the end products have been better than they would have been had he been subject to a degree of coercion in the selection of his fields of endeavor. Still another emphasizes the "divine flash" of inspiration which leads the individual researcher to projects which for him have a maximum of fruitfulness.

Without questioning the value of "divine flashes" and the desirability of preserving opportunities for yielding to their guidance, other members call attention to the fact that external guidance already plays a considerable part in determining the lines along which research will be done. The minds of graduate teachers are supposed to be repositories of long lists of potentially fruitful dissertation topics; if their lists are short and their conceptions narrow, the research of students doing work under their direction is likely to be handicapped. It is pointed out that as a matter of fact the annual list of dissertations in political science shows an immense amount of repetition and triviality. It is suggested also that coercion of a sort lies in the fact that most researchers are limited not merely by the intensity of their divine flashes, but by the availability of research materials, the opportunities for publication of studies of particular kinds, the availability of research funds for particular purposes, and various other factors. Furthermore, great advances have been made in medicine, chemistry, and physics through "directed" research financed by industry and foundations; and in economics, institutions such as Brookings and the National Bureau of Economic Research have done important work by means of directed research. Therefore, while it may be assumed that no member of the Panel would be willing to have pressure put upon any member of the profession to do research which he was unwilling to do, a number of members feel that research in public law would be greatly enriched if we could have at least a fuller interchange of ideas about fruitful projects which might be undertaken. Attention has been called to research outlines which are already worked out or in progress in a number of fields, with the thought in mind that such an outline might possibly be developed for the whole field of public law.

Most members of the Panel take the position that research in public law should as a rule not be narrowly legalistic in character. For the highly technical task of discovering exactly what the law is and what courts will

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probably decide in a particular field, law professors have superior equipment. On the other hand, political scientists have training and experience in exploring relations between law and government, both historically and in present-day operations—a task at which most lawyers are notoriously inept. The approach of the political scientist in the field of public law should be that of one interested in all the phenomena, whatever their kind, which aid in molding public law and are in turn governed by it. Successful research in public law will depend in part upon adequate training in the techniques of law itself—a field in which our equipment often leaves much to be desired—but it depends even more upon the integration of the techniques of law with those of politics, psychology, economics, history, and other disciplines.

Members of the Panel recognize that legitimate research in public law needs to be done at many levels. There is need for highly specialized investigations which can be done only by experts and which will yield results intelligible only to experts. There is need also for conventional types of factual studies to bring up to date accounts of happenings in the field and to accumulate kinds of information not previously available. Beyond the accumulation and the presentation of facts, however, there is need for that kind of research which consists largely of interpretation and synthesis. In the face of current need for significant illumination of facts, it is hardly surprising that people who fail to get that illumination from us are intolerant of what they regard as our waste of time upon logic-chopping over technical judicial decisions. Members of the Panel do not insist that every member of their profession must be a skilled popularizer and persuasive advocate in order to justify his membership. They do insist, however, that the welfare both of the profession and of the thinking public requires that the profession shall include able men with capacity to interpret facts in terms of values and to make interpretations intelligible to intelligent people. They contend that the science of public law, if it is to justify itself, must be a science for the development of tentative conclusions as to what ought to be, as well as a science of organization and discovery.

All members agree that justifiable research in public law must be "useful," but they have not worked out and agreed upon criteria of usefulness. Some of them probably regard research activities principally as a means of preserving the intellectual keenness of teachers; for them, therefore, the research done should obviously be that which is most stimulating to the investigator, whatever the interest or lack of interest of students and others of the profession in the particular topic. Others feel an obligation to add to the information or understanding of the profession or of the public by their research, but still vary considerably in their judgments as to what kinds of research will achieve these ends. Some members, perhaps

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most of them, feel that the approach should be predominantly historical and that our impact on government in the future should be largely in the form of clearer illumination of the past. This view is rejected by one member, however, in the following statement: "I am inclined to believe that all of the major fields of political science have had too much of the historical and analytical approach and too little of the prospective or constructive approach. . . . In my opinion, the political scientists ought to be giving a good deal of time and thought to the development of criteria for effective governmental action, as well as to ways and means of establishing the most effective governmental agencies to define and develop these criteria."

In the discussions of the substantive fields of research in public law, the judiciary has naturally received a great deal of attention. However, as stated above, members of the Panel feel that political scientists ought not to deal with the work of the judiciary in the same legalistically technical fashion as that of the legal profession itself. Many great constitutional decisions are to be understood in their broader significance only after careful examination of the handling of the cases in lower courts and of the situations out of which the cases arose. Others are to be understood only in terms of periods of development which involve the interplay of innumerable factors not primarily legal in character. Others have still other facets which require illumination for adequate understanding by students of government. It should be the task of political scientists in the field of public law to do the research and provide the illumination.

Some members of the Panel feel particularly strongly that research by immature scholars in pursuit of higher academic degrees should not be done at the heart of constitutional law in the hope of shedding direct light upon fundamental principles. The reason for the attitude is that the subject is too intricate for mastery in the brief period of graduate education and that the over-ambitious selection of a topic is likely to result in a poor product and may discourage an otherwise promising student in an important field. The immature scholar ought first to master the subject by study under guidance of instructors and by oblique approaches in independent research, such as the study of historical backgrounds of constitutions or constitutional principles or decisions, or the evolution of administration and administrative law as parts of a constitutional structure, or biographical portrayal of judges. Many of the defective streaks which appear in our literature are the product of over-optimistic choice of research topics by young people not yet sufficiently well-trained to handle them. It is to be emphasized, however, that, in offering this warning about the selection of research topics, Panel members do not desire to discourage youthful attempts at generalization about important phenomena. The early development of the capacity for disciplined generalization is vital to

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the intellectual health of our profession. The purpose of the warning is to promote the selection of research topics on which youthful generalization may reasonably be expected to have validity.

While it has been suggested that biographical and statistical approaches to the work of judges are the products of an era wherein belief in the stability of law is at low ebb and that the use of these approaches ought not to be overdone, the members of the Panel recognize the value of such studies. Much of the value of the biographical approach lies in the fact that judges are sometimes the sources, and are at almost all times the purveyors, of ideas which find permanent place in constitutional law. While students are warned against expecting too much in the way of interpretation or prediction of judicial action on the basis of early training and association, the flow of influence has in times past been demonstrated with sufficient persuasiveness to justify the belief that this type of research ought to be continued. The study of "average" justices, either individually or *en bloc*, may be of a value comparable to the value of the study of the few who are particularly outstanding. The careers and the judicial opinions of judges of some of the state courts and of the lower federal courts may offer rich opportunities for research. As to those justices who are outstanding, and who seem to have well-integrated philosophies with respect to the subject-matter of public law, it is contended that studies of such philosophies have value, even though they do not extend to the preparation of full-length biographies.

One member of the Panel suggests that the opinions of the justices should be viewed, not merely in terms of their immediate effects in molding law, but also in terms of their broader influence upon the conduct of other agencies of government and upon the thinking of the people. He calls attention to "the strong encouragement that the Marshall opinions gave to the cause of central power both in his own time and more or less continuously ever since. I wonder, for instance, how many times his 'Let the end be legitimate' passage from the McCulloch decision has been quoted with approval on the floors of Congress in the heat of debate over controversial bills. I think we might well encourage more research along these lines, particularly the influence of Supreme Court decisions upon Congressional debate and action."

Another member emphasizes the importance of the personal attitude of each individual judge toward the judicial game. By way of illustration, he refers to an analysis of the judicial work of Justice Roberts which leads to the conclusion that the Roberts approach to the judicial task was thoroughly legalistic. His preoccupation with a case was in terms of its character as a case. He was a "lawyer's lawyer." Justice Frankfurter has had an attitude toward the judicial process which has made his work hard to appraise by those who over-simplify analysis by classifying decisions

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largely in terms of liberalism and conservatism. Justice Harlan, in an earlier period, displayed a raw kind of realism in his approach to cases. The biographer must take into account the personal approach of his subject and must also attempt to understand more clearly than is usually understood just what a judge of a higher court does when he decides a case and what he attempts to do when he writes a judicial opinion. If it is true that the great task of the Supreme Court is that of creative preservation of the constitutional system, our judicial biographers have not yet sufficiently related the work of the judges to that task. In this connection, a Panel member suggests that it is the function of the Supreme Court to spin juristic theories of politics in such a way as to act as a broker between ancestry and posterity, to adjust to change while maintaining continuity of principle.

Fields of research partly or wholly outside the judiciary have been discussed less fully. Members of the Panel suggest that modern federalism, which is peculiarly the contribution of the United States to the science of government, is worthy of major study by a competent author or authors, over and above the incidental treatments which it receives in general studies of American government. Much the same position is taken with respect to the separation of powers. Although the device was not originated on American soil, its development here has brought out unique characteristics of basic importance. In the field of the executive, attention has been called to need for further study of the development of that body of law which flows from the decree-making power of the President. The activities of the Attorney-General as a molder of law and those of other legal advisers of government are worthy of study. The process of law-making in the independent regulatory commissions and in many administrative agencies of the executive branch of the government likewise provides a fertile field of investigation. The making by the Department of Justice, under anti-trust laws and related measures, of what are virtually rules for the operation of enterprise is a significant process within the scope of our study of the all-pervading characteristics of public law.

The development of standards of administrative operation is particularly important. Concerning the Office of Price Administration, for example, there has been a legislative requirement that prices fixed shall be "fair and equitable." The process of giving content to such a phrase is a law-making process comparable to that in which the judiciary is constantly engaged. Materials are available for contemporary analysis of this and similar practices in the development of administrative law. Because of the extent to which this process is in ferment, study of it may yield even richer results than study of the work of the courts. Settled habits and lack of familiarity with the new subject-matter ought not to be permitted to stand in the way of promising research.

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Again, the legislative branch of the government is also regarded as a fertile field for the study of the development and application of public law. Congress at times sits almost as a constitutional convention for the adoption of "constitutions" to create and to guide huge governmental agencies—agencies which themselves enact extensive codes of law with respect to the phenomena over which their "constitutions" give them jurisdiction. All three branches of the government participate to some extent in the development of international machinery and rules of public law. The establishment of the United Nations, of UNRRA, and of the European tribunal for the trial of war criminals provides fertile fields for important research and generalization.

One member of the Panel suggests that significant analogies for the study of public law are to be found in the relations of corporate organizations which in the technical sense are not states and do not exercise formal governmental powers. Agreements between giant corporations in the United States, and between corporations in the United States and others in foreign countries, have many of the characteristics of treaties between governments. They represent the stabilization of conduct by rules which closely approximate law, and this "law" emanates from organizations of such size and power that it bears a close resemblance to public law. The subject-matter becomes all the more important when the "public laws" of corporations clash with and frustrate the administration of the public laws of orthodox states. Conflicts and relationships now exist or are developing which may have far-reaching influence over the orthodox public law of the future. The study of these and other subjects not ordinarily regarded as within the immediate province of public law can do much to illuminate the characteristics of law and the place of law in the conduct of public and quasi-public organizations.

The Panel has considered public law both from the point of view of the creative aspects of the subject and from that of the restrictions which law places upon the government and upon the people governed. The subject of civil liberties has come constantly to the fore. It is considered important not merely in terms of conventional studies of judicial decisions affecting liberty, but also in terms of statutes bearing upon it, administrative decisions affecting it, and decisions concerning it which are made within private agencies such as labor unions and corporations having government contracts, agencies whose power is greater because they receive support from government. A detailed analysis of this subject is expected to appear in a research outline now being prepared by Robert E. Cushman. The ethical problems involved in activities in the various fields of public law are the subject of constant reference. If the representatives of public law who were consulted have ever been of the impression that their branch of political science could be treated as analogous to natural science in the

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sense that their subject-matter could be considered without reference to values, that frame of mind has been almost completely banished. A feeling seems generally prevalent that a concern for higher welfare ought to give tone to the work of the profession.

Apart from its preoccupation with the subject-matter of public law, the Panel has given thought to problems of personnel. As in many other fields, the current rate of infusion of new blood of high quality leaves much to be desired. Causes of the slow rate of the replenishment or increase are varied and not easily appraised. The flow of new personnel tends to follow dominant current interests. One member, referring to an alleged decline of interest in constitutional law, concludes pessimistically that nothing can be done about it. Political science, he says, "is altogether devoted too much to ephemeral pursuits, with the result that political scientists tend to react to a very considerable extent to the latest fads in the profession. This has been true since efficiency and economy constituted a fad in 1912 until today when war courses and courses on Latin America have become fads. After the present war, courses in international relations and organization are likely to become even more successful than they were in the twenties. Until such time, therefore, as public events bring constitutional law to the fore, any efforts to stimulate it as against present-day trends are likely to prove unsuccessful."

Certain it is that the opportunity for employment, the availability of research funds, and the lure of opportunity for the exercise of power have taken into the field of public administration men who might otherwise have sought to master the discipline of public law. The lure of the natural sciences undoubtedly draws into the nation's laboratories others whose abilities are greatly needed in a field devoted to the informed analysis and appraisal of the structure and systematic operations of government. Other men with similar potentialities are captured by the world of business. The intervention of the war drained away temporarily, and perhaps to some extent permanently, important resources in man-power. The fact remains that, as public law has always had outstanding men among its personnel, so it still has them, and may be expected to have them in the future. The attraction of new personnel, it is true, will depend in part on the performance of present mature practitioners. We need, not the display of the characteristics of professional prima donnas, but the conscientious performance of writers and teachers who can develop insight and impart enthusiasm.

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SOCIAL WELFARE AND POLITICAL SCIENCE

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During the past generation, social welfare has risen to a position of almost prime importance in the work of government. "Social services" have rivalled "defense services" as objects of public expenditure. "Social security" has complemented "national security" as an objective of public policy. Graduate schools of social work have taken their place alongside law schools, schools of education, and military and naval academies as important training-places for public service. It is perhaps time that we now inquire in what ways political science has been, or may yet be, affected by so phenomenal a change. If, as we are often assured, atomic fission means a revolution in our political thinking, the large-scale pursuit of social welfare might at least be expected to call for an equally vast, even though more gradual, evolution in our attitudes.

As an organized body of professed political scientists, how have we reacted to this change? We have, by and large, welcomed the extension of governmental activity. As teachers, we have helped habituate a new generation to such expressions as "the service state," "positive government," and "the new belief in the common man." As scholars, we have followed with interest and approval the successive steps by which jurists have brought these activities within the framework of the written constitution of a federal state. As theorists, we have given to personal insecurity an honored place in the new psychopathological chapter in our evolving political philosophy. As citizens, we have played our part in planning and administering social welfare policies. Yet, taking it all in all, it is surprising how little we have been changed by these developments. It is almost as though they have grown up with us and we with them.

Some light is thrown on our attitudes by a division of labor that has arisen between specialists in public administration and specialists in public welfare administration: the former have tended to think in terms of pattern and the latter in terms of content; for there is something almost Platonistic in our political science heritage which makes us feel at home in the abstract realm of pure form, but inhibits us from thinking in terms of ends and means. It may well be that the mutual exclusiveness of our two well-nigh-closed professional corporations of political science and public welfare has resulted in our losing a good deal of mutual stimulus, and in the public losing a good deal in the way of penetrating analysis and informed leadership. In order to understand better our mutual loss, let us consider a few of the principal aspects of the social welfare developments of the past generation. For convenience' sake, let us do this

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by thinking of social welfare action as a series of widening waves or ripples, beginning with the individual and family, spreading out to the group and local community, reaching to the confines of the nation-state, and influenced by the winds that blow in from the world society outside.

I

So far as concerns the individual and the family, one of the most important developments in the field of social welfare has been the creation of a wealth of positive legal rights to public aid. This is part of a broadening conception of our fundamental rights. Where the eighteenth century thought of freedom of speech and of religion, the twentieth century thinks of freedom from fear and from want. Where the eighteenth century thought of the natural rights of man as man, the twentieth thinks of social rights—rights, that is to say, that are social in two senses, first, because their realization depends on positive action by society through the instrumentality of government, and second because their beneficiaries belong for the most part to particular social classes—so that these rights might almost be called the privileges of the underprivileged.[1] Where the eighteenth century sought to remove the political obstacles in the way of these fundamental rights, the twentieth century seeks to remove the economic obstacles. Yet in spite of all the differences and changes that have occurred, this is no reversal of eighteenth-century traditions, but rather an expansion of eighteenth-century conceptions.[2]

The right of the human personality to self-realization still stands as the supreme and all-embracing right, of which the four freedoms and however many other fundamental rights there may be are but facets. Today we are aware of still more facets of the human personality, and therefore of more rights and freedoms than we have yet known. From being abstract, our political thinking has become social. Our political philosophy is today able to draw on psychology and sociology to give it a fuller vision of the ends to which government should be devoted in the service of the human personality; and it is no accident that at the very same time the new profession of social work has sought a scientific basis in the Freudian psychology of the personality.

The classical method of ensuring fundamental rights has been to impose legally enforceable limitations on the discretion of the politically and economically powerful; and in the field of social welfare this method is still important. In the United States of recent years, it has been used effec-

[1] Note, however, that in the United States social insurance has gone beyond the "low income group" concept of a social service, in that it covers the first $3,000 of income, and not only the earners of less than $3,000.

[2] The right to family allowances and old-age pensions was proclaimed by Thomas Paine in *Rights of Man*, Pt. 2 (1792).

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tively in favor of "fair labor standards" and "fair employment practices" and against "unfair labor practices." Even public aid turns to a considerable extent on a process of administrative justice, by which an adjudicating officer determines the facts and applies the law. In so far as this is so, a moral claim on society is translated into a legally enforceable claim on the state. It is astounding, however, to how small an extent this has actually been done—astounding, that is to say, how little security there is in our still embryonic system of social security. Only with workmen's compensation and the social insurances is it usual for the right to statutory aid to be both definite and enforceable; and in some even of these cases the adjudicating machinery is more adequate than the substantive aid. With social assistance—as one descends from pensions through categorical assistance allowances to general poor relief—the beneficiary's right becomes steadily less clearly defined and less easily enforced, and he finds himself more and more at the mercy of arbitrary policy-making at lower and lower echelons in the governmental hierarchy.[3]

To work relief in such forms as the Works Projects Administration, National Youth Administration, and Civilian Conservation Corps, the right has never been clear.[4] Nor has it been easy to establish a right to public housing.[5]

There is all the difference in the world between being "eligible for" a social service and being "entitled to" its benefits; for eligibility alone means nothing more than the right to apply, to wait, and to hope. The political scientist seems hardly aware of, and has certainly done little to dispel, the limbo of rightlessness in which many kinds of public aid still flounder. And, for reasons partly of expensiveness and partly of pro-

[3] On the discretionary nature of general poor-relief, see 41 *Am. Jurisprudence* (San Francisco, 1942), p. 704; Social Science Research Council Committee on Social Security, *Suggestions for Research on Problems of Relief* (Washington, 1939), p. 12; and Edith Abbott, *Public Assistance* (Chicago, 1940), I, pp. 7–23. On administrative "fair hearings" and judicial appeals in public assistance for special categories, see Robert T. Lansdale *et al.*, *Administration of Old Age Assistance* (Chicago, 1939), pp. 297 ff; Social Science Research Council Committee on Social Security, *Topics for Research Concerning Public Assistance Programs* (Washington, 1941), p. 28; Dorothy Warren, "Staff Thinking on Fair Hearings," *Public Welfare*, Vol. 3 (June, 1945), pp. 136 ff. For the discretionary administrative assimilation of categorical assistance to general poor-relief, see Alton A. Linford, "Responsibility of Children in the Massachusetts Old Age Assistance Program," *Social Service Review*, Vol. 19 (June, 1945), pp. 222 ff.

[4] Donald S. Howard, *WPA and Federal Relief Policy* (New York, 1943), especially Chaps. 14–16.

[5] Perhaps because housing, regardless of whether publicly or privately owned, is in process of becoming a public utility undertaking in the interest of all classes instead of—or as well as—public housing being a social service on behalf of particular classes.

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cedural defect, the limelight which law courts have thrown on the clarification of civil liberties has been largely lacking in the field of social rights, although these latter are of direct and vital concern to perhaps as many as one-third of the citizens of a modern nation when they are passing through the valley of the shadow of depression.[6]

The classical approach, however, is only half of the story. Limitation on the discretionary power of officials to deny the full implementation of social rights is meaningless except in the context of a governmental organization that is adequately financed, adequately staffed, and adequately endowed with the necessary powers to enable it to deliver the goods.[7]

To execute a social welfare policy, administrative management at all levels from top to bottom is as important as administrative justice; and a close analysis would undoubtedly reveal that defects in the one are not unconnected with deficiencies in the other.

Organizational study of social welfare management is badly needed in all three principal kinds of social service—income, supply, and services. Income security has nowhere been made a first charge on the budget, and, except in so far as an island of stability is assured by the extra-budgetary device of social insurance, it has been usual to reduce tax-provided income payments at the very moment when social needs and the general interest demand that they should be increased. The full-employment economist has shown us the income-assuring policy we ought to pursue; it still remains for the political scientist to devise the organizational means for applying it.[8]

Secondly, important experiments have also been begun in the stabilization of commodity prices at levels within the reach of people with low incomes, both by subsidy and by bulk procurement; within the past ten years a number of examples have appeared in the United States and still more in the United Kingdom that would seem to warrant the attention of the political scientist as well as of the economist. Thirdly, in meeting the needs of the disadvantaged for services as well as for material necessities,

[6] The inadequacy of judical remedies needs exploring state by state. The general limitations, however, are summarized in F. F. Blachly and M. E. Oatman, *Administrative Legislation and Adjudication* (Washington, 1934), Chap. 9; and reasons why a former generation of jurists studied negative controls rather than positive services are touched upon in Ernst Freund, *Administrative Powers over Persons and Property* (Chicago, 1928), p. 7 f. For the proportion of the American people dependent on public aid in the 1930's, see National Resources Planning Board, *Security, Work, and Relief Policies* (Washington, 1942), p. 100.

[7] For the application of organizational principles and standards to social welfare management, see Marietta Stevenson, *Public Welfare Administration* (Chicago, 1938).

[8] "Maintaining High-level Production and Employment; A Symposium" (ed. Fritz Morstein Marx), in this REVIEW, Vol. 39 (1945), pp. 1199 ff.

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professional services of many kinds have to be made available to those who cannot afford to pay for them; techniques have to be devised for assuring adequacy of service as of income; specialists of many kinds—doctors, teachers, lawyers, and social workers—have to be induced to work together as a team; and information centers or advice bureaus have to be set up as central referral points for all community services.

To none of these social welfare aspects of administrative management have political scientists given anything like as much attention as to the public utility aspects. Yet in this field, as in that, there is need for a lot of thinking by some other people besides social workers on the proper rôle of the social worker in the social services; justification, for example, is specially needed in such anomalies as that the only Great Power in which professional social workers are employed as intake-officers and appeal-adjudicators for assistance allowances and general relief is the United States—partly, perhaps, because the alternative has been political henchmen, and partly also because there is more room for discretion in administering a conservative system of allowances than a liberal system of pensions; while the only populous country in which professional social workers have been employed as housing managers in slum-clearance projects is the United Kingdom. The current socialization of social work would alone be enough to justify the political scientist in making a close-up study of the social worker.[9]

II

Changing one's approach from the individual and family to the group, the neighborhood, and the local community of which they are members, one comes upon a realm of "intergroup community organization" that is full of lessons for the political scientist. Here is a conception of a community organized not compulsorily through governmental authority but voluntarily by keen minorities; with standards set by successful example and social prestige rather than by legislative enactment or administrative regulation; with coöperation elicited by persuasion, fact-finding, and the pressure of informed opinion, backed by the power of the purse (the community fund); with boundaries expanding with population over-spill instead of frozen by history; and composed of neighborhoods as service areas rather than of wards as electoral districts.[10]

[9] The more so since state registration of social workers has now spread from Germany and France to California. See John S. Bradway, "Legalizing the Professional Social Worker," in *Social Service Review*, Vol. 19 (1945), pp. 48 ff., and Arlien Johnson *et al.*, in a special number of *The Compass*, Vol. 26 (Sept., 1945).

[10] See, e.g., A. W. McMillen, *Community Organization for Social Welfare* (Chicago, 1945); Joanna C. Colcord, *Your Community* (New York, 1941); and Clarence A. Perry *et al.*, "Neighborhood and Community Planning," in *Regional Survey of New York* (1929), Vol. 7.

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Here is a different frame of reference and in some ways a socially more mature and politically less abstract one than the thought-pattern in which power is deemed to flow up from a sovereign people through the elected representatives of the majority, and then down again through a hierarchy of bureaucrats. In places in which there has long been a taboo on political participation by decent and reputable citizens, the contrast between this unofficial kind of community organization and the official government of the city may be very striking; and a parallel study of these two profiles of the local community might be very illuminating. In some other countries the lines are less sharply drawn between the official and the unofficial forms of local community organization; yet students of local government have made singularly little use of the comparative approach to the investigation of so basic a set of institutional relationships.[11]

No reading of laws, or of court decisions, no quantitative measurement of activities, and no exploration of one's own ego, will throw light on a field such as this. Instead, the researcher needs a certain maturity, a feel for social realities, a flair for sensing the "tie in" of institutions and groups. This is not perhaps very different from what is asked in the study of parties, pressure-groups, propaganda, and similar aspects of contemporary politics. This side, at least, of political science—this sociology of influence, if not of power—could be strongly reinforced by study of voluntary community organization. We would then be one step further along the difficult road toward creating a political science—a distillation of civic experience—that would be useful to practitioners of the art of setting ideas to work.

This however is very far from being the whole of the road along which the social welfare movement is likely to lead the political scientist. The policies that this movement asks of the nation-state involve the doing of things for people rather than by people. The bottom "third of the nation" is by definition that part of the population that is under-privileged because it is too poor and too ill-organized to express itself effectively. Preventive measures may be advocated by groups that are struggling to avoid submersion in this under-privileged mass; but remedial measures may have to be promoted by those that stand outside. It is by imaginative insight, helped by all the powers of measurement that social science has put at their disposal, that social welfare leaders have to penetrate the needs of those who live across the tracks and below the poverty line, making themselves the spokesmen of the poor and the tribunes of the plebs. In so far

[11] On the relationship between governmental and voluntary social welfare action, one might compare, for the United States and the United Kingdom, respectively, Arlien Johnson, *Public Policy and Private Charity* (Chicago, 1931), and Elizabeth Macadam, *The New Philanthropy* (London, 1934), although neither is confined to local community action.

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as a democracy enfranchises its poorer citizens, even to the point of admitting them to the suffrage, the social welfare reformer may find in this normally inarticulate mass a loyal body of supporters whose only way of expressing their will is through the ballot box. The leadership and drive that make for such a movement, however, are to be sought less among the masses than among enlightened bureaucrats, social scientists, social workers, philanthropists, full-employment economists, those rare politicians who spring from social *milieux* in which paternalism is not looked at askance, and those statesmen who see the contribution that social security can make to national security in an age when ideological weapons and fifth-column tactics are in common use as instruments of foreign policy. There is, in fact, in this pursuit of social welfare policies something peculiarly reminiscent of the epoch-making vision of an alliance between philosophers and proletarians that first made Karl Marx into a Marxist. This is no doubt an inevitable aspect of the functioning of capitalist democracy; but in tone and temper and in social structure it is the very antithesis of that middle-class republic of pressure groups that has been the object of so remarkable a cult on the part of certain eminent American political scientists of recent years; and although it may be admirably illustrated from contemporary American history, political scientists have accorded to this phenomenon only a tithe of the study to which its importance entitles it. To the realist who knows the force of ideals, the devices by which social reforms are put across are no less important than the political skill with which individuals jockey themselves into positions of power and influence.

III

These trends and tendencies are very far indeed from being confined to any one country or group of countries. On the contrary, one of the characteristics of this social welfare movement is the extent to which it spreads from country to country, not only in a vague general kind of way, but also armed with specific institutional techniques.

Of this debt-free borrowing of culture traits, many examples could be given. The municipal organization of laymen to take responsibility for a limited number of cases has spread from Elberfeld to Strasbourg, Vienna, Warsaw, Helsinki, and London. Public grants to trade unions in aid of health or unemployment insurance for their members has spread from Ghent to all the small democracies of the northwest European continent. Unemployment insurance has spread from Britain to most capitalist countries. Official guardianship of all children who do not have normal families has spread from Leipzig to Austria, Czechoslovakia, and Scandinavia. Children's courts have spread from Chicago over most of the world. Civilian labor service for unemployed youth spread from Switzer-

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land to most countries of continental Europe, and gave the United States its Civilian Conservation Corps. The delegation of governmental responsibility for child welfare to a government-sponsored, nation-wide voluntary agency parallel with the national Red Cross has become standard practice in southeastern Europe and Latin America. The delegation of governmental responsibility for emergency relief to another similar agency has spread from France to other European countries, both during the recent German occupation and since liberation.

Through the League of Nations, and especially through its International Labor Organization, some small part of this exchange of social welfare experience was deliberately organized and stimulated.[12] In fact, when one considers the dissemination of social insurance, from Europe to other continents, over which the ILO presided, one is tempted to say that the League of Nations had more success in coördinating social than economic or foreign policy—more influence over the internal than the external affairs of nations. In this field, if in no other, the League was able amply to demonstrate that ideas are a force that can be wielded by a confederacy of sovereign states, regardless of whether it has any other force at its disposal.

Almost as if in obedience to the law of time-lag, it would seem that not only has intergovernmental machinery lagged behind the international exchange of social welfare techniques, but also that our scientific awareness may have lagged even further behind the development of social actuality. In our study of international relations, a proper preoccupation with formalized and institutionalized relationships may have obscured our view of the transnational radiation of policy-shaping influences, except perhaps in so far as these emanate from power-seizing political parties. In our study of comparative government, a similar preoccupation with the organization of power within the sovereign state may have left but little room for exploring the ways in which the power and prestige of the state and its instrumentalities are used for the welfare of those citizens who themselves are but little endowed with the power that attaches to wealth and office.[13] What political scientists have not done, others have

[12] Note especially International Labor Organization, *International Survey of Social Services* (Geneva, 2nd ed., 1935), with its emphasis on nationally-financed income-security.

[13] A number of excellent monographs have been written on particular aspects of social welfare administration in particular countries; but no comparative study of social welfare in general has been published in English since C. R. Henderson, *Modern Methods of Charity* (1904). Recent texts in comparative government in which some attention is given to social welfare include Fritz Morstein Marx, "Germany," in William Anderson, ed., *Local Government in Europe* (1939); Walter R. Sharp, *Government of the French Republic* (1938); and W. H. Wickwar "Govern-

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been even less equipped to do. Yet the problem before us is only a continuation of the one we have faced for a hundred years in our effort to overcome abstractions whether concerning the individual or the sovereign state, and to infuse our thinking with a feel for society as an all-pervading nexus of relationships and processes that is as wide as humanity itself. The exploration of phenomena that lie outside the disciplines of yesterday is part of the eternal struggle by which the scholar advances the frontiers of social consciousness, bringing more and more social institutions within the range of scientific comprehension, just as the organizer of men brings more and more of man's amorphous activities within the orderly channels of institutionalized behavior.

Such, in short, are some of the problems posed for political science by this contemporary pursuit of social welfare. The nature of social rights, and the administrative organization needed for their realization; the voluntary self-organization of the local community for aid to those of its members who are in trouble, and the mobilization of political influences and governmental power for the same purpose of social service; and the manifestation of international trends in national policy and community practice—all of these are among the new social welfare touchstones by which the validity of an evolving political science can be tested and affirmed.

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ment and the Social Pattern in Wartime Britain," in H. Zink and T. Cole, eds., *Government in Wartime Europe and Japan* (1942). See also W. H. Wickwar, "Welfare Map of Europe," *Social Service Review*, Vol. 20 (June, 1946).

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NEWS AND NOTES

PERSONAL AND MISCELLANEOUS

Compiled by the Managing Editor

Professor Herman Finer, formerly of the London School of Economics and now at Harvard University, has accepted a professorship of political science at the University of Chicago.

Dr. Alexander Passerin d'Entreves, professor of Italian institutions at Oxford University, will be visiting professor of political science at the University of Chicago during the summer quarter. Dr. Robert D. Leigh, director of the Commission on Freedom of the Press, will serve also as visiting professor during the summer quarter.

Professor Kenneth Colegrove was granted leave of absence for the spring quarter at Northwestern University in order to accept a special assignment relating to Japanese constitutional reform at the General Headquarters of the Supreme Commander of the Allied Powers in Tokyo. During his absence from the United States, Professor Harvey Walker acted as secretary-treasurer of the American Political Science Association.

Professor John P. Horlacher, of the University of Pennsylvania, is acting as a public member of the Third Regional Wage Stabilization Board.

Professor William Ebenstein, of the University of Wisconsin, has been appointed to an associate professorship at Princeton University.

At the University of Chicago, Mr. Roy Blough, assistant to the Secretary of the Treasury and director of tax research, has succeeded to the professorship of economics and political science vacated by Dr. Simeon E. Leland, who has become dean of the arts college at Northwestern University.

Dr. R. F. Patterson, professor of government and director of governmental research at the University of South Dakota, has been appointed dean of the School of Business Administration and professor of public finance at the same institution and will assume his new duties July 1.

Lt. Col. George C. S. Benson is on terminal leave from the Army. During the war years he served as personnel director and as director of the Administrative Division of the Office of Price Administration; in the Control Division, Army Service Forces; and for two and a half years in military government in Italy and Austria. He resigned as professor of political science at Northwestern University in 1945, and will teach at Harvard University during the summer of 1946.

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Dr. Charles Prince has resigned his position as Soviet Russian expert of the Chamber of Commerce of the United States to accept a similar assignment on the editorial staff of *World Report*, a companion weekly journal of the *United States News*.

At the University of Pennsylvania, Assistant Professor William H. Young has returned from military service; Assistant Professor Edgar B. Cole has been appointed director of the Collegiate Collateral Course and Summer School programs; and Messrs. John R. Probert, Willard R. Hancock, Charles H. Harry, Bernard Wolfman, and Cecil J. Burnett have been added to the staff as instructors.

Professor John A. Perkins, of the University of Michigan, has been appointed by the governor of the state to a two-year term on the state planning commission.

After two years of service in the U. S. Army, Professor Dell G. Hitchner, formerly of Coe College, has accepted an associate professorship at the University of Wichita. He will teach at the University of Nebraska during the coming summer.

After twenty months of service in the training activity of the Bureau of Naval Personnel, Dr. Vernon Van Dyke, formerly of DePauw University, has been appointed assistant professor of international relations at Yale University.

Professor W. Brooke Graves, of Bryn Mawr College, will teach at Cornell University during the latter portion of the coming summer session.

After two years of service with UNRRA, Professor W. Hardy Wickwar has accepted an appointment as professor of the social sciences at Hamilton College.

Dr. Edgar Dawson, who retired in 1939 as head of the department of history and social sciences at Hunter College after thirty years of service, died on April 30 at the age of seventy-three. Dr. Dawson was a founder of the National Council for the Social Studies, and served as its secretary in 1921–28 and president in 1929–30.

At the University of Chicago, Mr. Louis Brownlow gave two lectures during the spring quarter based on his autobiography and dealing with his early political interests and activities.

Dr. J. Eldon Fields, of the University of Chicago, has been appointed to an assistant professorship at the University of Kansas.

After having served three and one-half years as an officer in the Naval

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Reserve, Dr. Landon G. Rockwell has been appointed to an assistant professorship at Williams College.

Dr. Harold F. Gosnell, formerly of the department of political science, University of Chicago, has transferred from the Bureau of the Budget to the Department of State, where he will be in charge of the War History Branch in the Office of Public Affairs. In addition to his government work, he is lecturing at the American University.

At the University of Tennessee, Professor Lee S. Greene has been made head of the department of political science.

Dr. A. P. Cagle, chairman of the department of political science at Baylor University, has been elected to the city commission of Waco, Texas.

At the University of Chicago, Dr. C. Herman Pritchett has been promoted to an associate professorship.

Dr. Sam M. Houston, formerly assistant educational director of the National Institute of Public Affairs in Washington, D. C., has accepted an assistant professorship of public administration at the University of Southern California.

Two new courses entitled "Russian Foreign Policy" and "Soviet Asia" will be offered in the department of political science at the State University of Iowa next year. They will be in charge of Assistant Professor Jack T. Johnson, who has returned from service in the Navy, including a period of several weeks with the Russian Navy.

Professors Robert J. Harris and Alden L. Powell, of Louisiana State University, are teaching in the summer sessions of Vanderbilt University and the University of Illinois, respectively.

Professor William A. L. Beyer, head of the department of social science at Illinois State Normal University, will retire in September. His successor will be Dr. Richard G. Browne, who returned to teaching last fall after two years of service as acting director of research for the Illinois Legislative Council, and who has since been appointed research director on a part-time basis for the Illinois School Finance and Tax Commission.

Associate Professor Morley Ayearst, of New York University, who was overseas for the Foreign Economic Administration during the war and is now serving as a consultant with the War Records Section of the Bureau of the Budget, has been appointed director of the New York University-Westchester Center, a junior college to be established at White Plains, New York. The Center will open this September with a freshman program in arts and commerce.

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Dr. Stephen P. Duggan, for many years professor of political science at the College of the City of New York, founder in 1919 of the Institute of International Education, and the Institute's director from its beginning, is retiring from the directorship as soon as a successor can be found. Under his leadership in the last twenty-seven years, the Institute has arranged exchange of 6,581 students on scholarships between the United States and European and Latin-American countries, and has assisted in obtaining positions in American colleges and universities for 335 foreign professors and other persons.

A series of eight conferences on the subject of atomic energy control, planned and directed by Dr. Hilden Gibson, of the University of Kansas, were held in various centers of the state of Kansas throughout the first half of April. Panel discussions were led by five members of the Federation of American Scientists, together with fourteen members of the departments of political science, economics, physics, and chemistry at the University of Kansas. Much interest was aroused throughout the state as a result of these institutes, made possible through a grant by a public benefactor.

At Syracuse University, a course in basic research methods is being experimented with in an attempt at coördinated presentation of uses and limitations in the social sciences. Staff participation includes personnel from the several involved disciplines, including geography, political science, history, economics, and sociology. The use of such a course for candidates for advanced degrees in particular social sciences is being considered. The purpose is to provide greater appreciation of the unity as well as specializations in the social sciences.

Professor Edward Mead Earle, of the Institute for Advanced Study at Princeton, has been awarded the Medal for Merit, the highest decoration available to a civilian for war service. The presentation was made on behalf of the President by General Carl Spaatz, Commanding General of the Army Air Forces, at a ceremony in the Pentagon Building in Washington on May 13. The award to Professor Earle was for "extraordinary fidelity and exceptionally meritorious conduct" in the performance of duties for various government agencies, especially the Army Air Forces, both in the United States and overseas. The citation, signed by President Truman as commander-in-chief, enumerated the reasons for the award and concluded: "Through his untiring efforts and deep personal interest in the conduct of the war, Dr. Earle made exceptional contributions to his country's ultimate victory."

In February, the Economic and Social Council of the United Nations established a Statistical Commission with general responsibility for assist-

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ing the Council in coördinating the statistics which will be required from member governments and developing the central statistical services of the Secretariat. The Council elected the following persons as initial members of the Statistical Commission: H. Campion (United Kingdom), head of the Central Statistical Office of the British Cabinet; M. G. Jahn (Norway), president of the Bank of Norway; M. A. Teixera de Freitas (Brazil), secretary-general of the Brazilian Institute of Geography and Statistics; P. C. Mahalanobis (India), Statistical Laboratory, Presidency College, Calcutta; Stuart A. Rice (United States), assistant director of the Bureau of the Budget in charge of the Division of Statistical Standards; and Professor Alfred Bernard Sauvy (France). Three other initial members of the Commission are to be designated by members of the Council, for China, Ukraine, and the U.S.S.R.

In September, Columbia University will inaugurate a Graduate School of International Affairs, planned with a view to developing a continuing group of American specialists in international business, economics, and government. Directing the School will be Professor Schuyler Wallace, executive officer of the department of public law and government. The teaching staff will include not only present members of several graduate departments of the University, but also a number of new appointees. The course will cover two academic years.

At Stanford University, Professor Graham H. Stuart has returned from his assignment as special assistant to the Diplomatic Agent at Tangier. In pursuance of his mission, Dr. Stuart drafted a new statute for the International City of Tangier, which seemed acceptable to the other interested governments represented on the ground. In the existing political situation it was not possible, however, to secure its adoption at this time. On returning to the campus, Dr. Stuart asked to be relieved of the executive headship of the political science department. His resignation was accepted, and Professor Charles Fairman was appointed in his stead. Professor Fairman has just been released from active duty in the Army, with the rank of Colonel in the Judge Advocate General's Department, after four years' service. He was sent to North Africa in May, 1943, to serve as Chief Counsel of the Allied Military Government of occupied territory. Shortly after his arrival, the Military Government—later G-5—Section was set up at Allied Force Headquarters, and he was ordered there as Legal Adviser. His duties there consisted in advising on questions of law and policy related to the administration of military government, the administration of the Italian armistice, and the planning of the invasion of France. In October, 1944, Colonel Fairman was ordered from Italy to the European Theater Headquarters at Paris, to become chief of the International Law Division of the Theater Judge Advocate's Office. Dur-

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ing his last three months overseas, he served as liaison officer between Theater Headquarters and the Office of U. S. Chief of Counsel at Nuremberg, and on completion of his overseas assignment he was awarded the Legion of Merit. Professor Fairman has lately received a grant-in-aid from the Social Science Research Council, to resume his study of Mr. Justice Bradley of the United States Supreme Court.

A Conference on Middle Eastern Affairs was held under the auspices of the department of government at Harvard University April 13 and 14. Professor C. J. Friedrich acted as chairman. Specific Middle Eastern problems discussed were: "Great Power Conflicts in the Middle East," "The Future of Turkey and Iran," "Mandates and the Problem of Palestine," and "Oil and Other Resources of the Middle East." Principal speakers were William E. Rappard, director of the Graduate Institute of International Studies, University of Geneva, and James M. Landis, dean of the Harvard Law School. Among members of the political science fraternity present were Quincy Wright, University of Chicago; R. G. Woolbert, University of Denver; Wilbur W. White, Western Reserve University; R. B. Stewart, Tufts College; Frank Nowak, Boston University; E. S. Mason, Harvard University; D. C. McKay, Harvard University; Grayson L. Kirk, Columbia University; A. N. Holcombe, Harvard University; Leland M. Goodrich, World Peace Foundation; Herman Finer, Harvard University; Merle Fainsod, Harvard University; W. Y. Elliott, Harvard University; S. W. Baron, Columbia University; C. C. Brinton, Harvard University; and P. F. Drucker, Bennington College.

Committees of the American Political Science Association for 1946. A substantially complete list of the Association's committees for the current year is as follows:

Committee on American Legislatures: George B. Galloway (Joint Committee on Reorganization of Congress), *chairman;* Joseph P. Chamberlain (Columbia University); Marshall E. Dimock (Northwestern University); E. Pendleton Herring (Harvard University); Arthur N. Holcombe (Harvard University); J. F. Isakoff (Illinois Legislative Council, Springfield, Illinois); Meyer Jacobstein (Brookings Institution); Robert D. Leigh (Commission on the Freedom of the Press); Benjamin B. Wallace (United States Tariff Commission); Schuyler C. Wallace (Columbia University); Roland Young (Washington, D. C.); Belle Zeller (Brooklyn College).

Committee on Atomic Energy: Frederick S. Dunn (Yale University), *chairman;* Clarence A. Berdahl (University of Illinois); Grayson Kirk (Columbia University); Walter H. C. Laves (Bureau of the Budget); Amry Vandenbosch (University of Kentucky).

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Committee on the Directory: Kenneth Colegrove (Northwestern University), *chairman;* Franklin L. Burdette (Butler University), *editor;* William Anderson (University of Minnesota); John E. Briggs (State University of Iowa); Robert E. Cushman (Cornell University); Frederic A. Ogg (University of Wisconsin); Leonard D. White (University of Chicago).

Committee on Endowment: William Anderson (University of Minnesota) *chairman;* Charles A. Beard (New Milford, Connecticut); Joseph P. Chamberlain (Columbia University); Kenneth Colegrove (Northwestern University); Frederick M. Davenport (National Institute of Public Affairs); John A. Fairlie (University of Illinois); John M. Gaus (University of Wisconsin); Charles G. Haines (University of California at Los Angeles); Arthur N. Holcombe (Harvard University); Isidor Loeb (Washington University); Charles E. Merriam (University of Chicago); William B. Munro (California Institute of Technology); Frederic A. Ogg (University of Wisconsin); Lindsay Rogers (Columbia University).

Committee on Latin American Affairs: Russell H. Fitzgibbon (University of California at Los Angeles), *chairman;* Willard F. Barber (Department of State); Louis Brownlow (Public Administration Clearing House); Henry A. Reining, Jr. (New York City); William S. Stokes (Northwestern University); Graham H. Stuart (Stanford University); Bryce Wood (Swarthmore College).

Committee on a Library of Political Thought: Francis W. Coker (Yale University), *chairman;* John D. Lewis (Oberlin College); Peter H. Odegard (Reed College); C. B. Robson (University of North Carolina); René D. Williamson (University of Tennessee).

Committee on Publications of the Department of State: Royden Dangerfield (University of Oklahoma), *chairman;* Walter H. C. Laves (Bureau of the Budget); John A. Vieg (Pomona College); Wilbur W. White (Western Reserve University); Francis O. Wilcox (Legislative Reference Service).

Committee on Publication of Election Statistics: W. Reed West (George Washington University), *chairman;* Thomas S. Barclay (Stanford University); Harold F. Gosnell (Bureau of the Budget); James K. Pollock (University of Michigan); Alden L. Powell (Louisiana State University); E. E. Schattschneider (Wesleyan University); Catheryn Seckler-Hudson (American University).

Committee on Regional and Functional Societies: John E. Briggs (State University of Iowa), *chairman;* R. Jean Brownlee (Pennsylvania Political Science and Public Administration Association); Thomas I. Cook (University of Washington); James Hart (Southern Political Science Association); Thorsten V. Kalijarvi (New Hampshire State Planning and De-

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velopment Commission); Matthew C. Mitchell (Brown University); Charles C. Rohlfing (University of Pennsylvania); Cyril B. Upham (Deputy Comptroller of the Currency); Harvey Walker (Ohio State University); Howard White (Miami University); Francies O. Wilcox (Legislative Reference Service, Library of Congress).

Committee on Research: Ernest S. Griffith (Legislative Reference Service), *chairman;* Joseph E. McLean (U.S.N.R.), *secretary;* William Anderson (University of Minnesota); Arnold Brecht (New School for Social Research); Bernard Brodie (Yale University); Harwood L. Childs (Princeton University); Francis W. Coker (Yale University); Taylor Cole (Duke University); Patterson H. French (War Records Section, Bureau of the Budget); E. Pendleton Herring (Harvard University); Charles S. Hyneman (Federal Communications Commission); Grayson L. Kirk (Columbia University); Charles E. Merriam (University of Chicago); Dorothy Schaffter (American Council on Education); Carl B. Swisher (Johns Hopkins University); Francis G. Wilson (University of Illinois); Roland Young (Washington, D. C.).

Committee on Social Studies: Howard White (Miami University), *chairman;* Richard G. Browne (State Normal University, Normal, Illinois); Kenneth C. Cole (University of Washington); Russell M. Cooper (University of Minnesota); J. Murdoch Dawley (State Teachers College, Fredonia, New York); Samuel R. Harrell (National Foundation for Education); Robert E. Keohane (University of Chicago); David W. Knepper (University of Houston); Hilda M. Watters (Western Illinois State Teachers College).

Committee on Undergraduate Instruction: Francis O. Wilcox (Legislative Reference Service), *chairman;* Charles Aikin (University of California); Ethan P. Allen (University of Kansas); Herbert W. Briggs (Cornell University); A. N. Christensen (University of Minnesota); Finla G. Crawford (Syracuse University); Royden Dangerfield (University of Oklahoma); Marshall E. Dimock (Northwestern University); Harold M. Dorr (University of Michigan); James W. Fesler (University of North Carolina); George A. Graham (Princeton University); Harvey C. Mansfield (Office of Price Administration); Roscoe C. Martin (University of Alabama); Charles McKinley (Reed College); John D. Millett (Columbia University); Charles Gordon Post (Vassar College); Victoria Schuck (Mount Holyoke College); John A. Vieg (Pomona College); Robert A. Walker (Kansas State College); Benjamin F. Wright (Harvard University).

Trust Committee: President of the Association, ex-officio, *chairman;* Secretary-Treasurer of the Association, ex-officio; John Day Larkin (1946–1950); William Anderson (1946–1949); Leonard D. White (1946–1948); John M. Gaus (1946–1947); Edwin O. Griffenhagen (1946).

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BOOK REVIEWS AND NOTICES

Lincoln The President; Springfield to Gettysburg. By J. G. Randall. New York: Dodd, Mead and Company. 1945. Two volumes. Pp. xxi, 395, 439. $7.50.)

In these two volumes Professor Randall has made a scholarly and significant addition to Lincoln literature. He has confined himself to the period from 1860 to the latter part of 1863, passing by Lincoln's early life and leaving the later years of the presidency to a companion work, to be completed after the opening of the Lincoln manuscripts in the Library of Congress in 1947. Presenting his subject from the historical as well as the biographical point of view, Professor Randall quite rightly says that "it has been found impossible to present Lincoln's background and his crowded years of leadership except by integration with contemporary movements and thought currents" (p. vii). Yet to keep the narrative within proper bounds is a difficult task, and he confesses that "the story of Lincoln becomes too much clogged if one attempts to tell the complex history of the time" (II, p. 12).

Professor Randall opens his story with an analysis of Lincoln as he was in 1860. More widely traveled than is usually supposed, adept at stump speaking, knowing the ways of politicians, Lincoln had a great desire to rise and become an influential individual. He was a party man, but he did not approve the worst party excesses. In his short term in Congress (1847–49), a bill which he proposed for gradual and compensatory abolition of slavery in the District of Columbia "revealed the character and point of view of Lincoln the statesman: his conservatism, his patience in letting a process work itself out over the years, his lack of antagonism toward the South, his regard for the rights of the slaveholders, his attention to legal details, and his valuing of popular and democratic processes" (I, p. 17). If it can be said that Professor Randall has a thesis which underlies his treatment of Lincoln, it may be found in the passage just quoted and in a later summary: "Ideologically, Lincoln was an ardent democrat, an enthusiast for popular rule, an enemy of tyranny; yet he was always wary of revolutionary or too drastic methods. Working for human progress in conservative terms, he was essentially a moderate liberal" (II, p. 204). His leadership was that of "a rough-hewn man who seldom erred in his reading of popular sentiment" (II, p. 300).

Professor Randall considers it surprising how little attention has been given to the actual content of the Lincoln-Douglas debates. He finds it surprising also that, with a wide variety of national issues before them, Lincoln and Douglas confined themselves to the one question of federal prohibition of slavery in the western territories.

Concerning the factors which contributed to Lincoln's nomination at

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Chicago, Professor Randall stresses the strategy of Lincoln's managers, who worked quietly to secure the delegates of states whose final action would probably control the convention. In the ensuing campaign Lincoln took little active part, remaining quietly at Springfield. His support was much more sectional than that of any of his rivals. In regular Republican efforts, emphasis was on avoidance of excessive abolitionist agitation, yet in a short period of time it was the radicals who obtained control of the Republican party and went counter to Lincoln's wish. Professor Randall asserts that on "broad racial matters and on states rights Lincoln was closer to the attitude of Southerners than to that of extreme abolitionists" (I, p. 244).

Professor Randall has reëxamined critically the Ann Rutledge episode, revised considerably the traditional estimate of Mrs. Lincoln, given further details on the selection of Lincoln's cabinet, placed McClellan in a much more favorable light, censored wartime politics which threatened the Union with disaster, and delved deeply into the emancipation problem. In doing all this he has examined a vast amount of material, some of it never before used by Lincoln biographers.

There is a good account of the Gettysburg address, in the course of which Professor Randall amply supports his statement that the address had become famous even in Lincoln's day. Lincoln's care in its preparation is evidenced by no less than five autograph copies in his own hand which have survived to the present time. With reference to the literary style of the address, Professor Randall says that "like Jefferson, Lincoln had the knack of taking an idea that was part of the heritage of the race and immortalizing it by pithy and unforgettable utterance" (II, p. 317). At Gettysburg, Lincoln coupled his tribute to the dead with the political idea of "the enduring importance of success in the American democratic experiment as proving that government by the people is no failure" (II, p. 320).

A bibliography of nearly sixty pages adds greatly to the value of this biography. The succeeding volumes will be awaited with keen anticipation.

EVERETT S. BROWN.

University of Michigan.

Chief Justice Stone and the Supreme Court. BY SAMUEL J. KONEFSKY. (New York: The Macmillan Company. 1945. Pp. xxvi, 290. $3.00.)

With an interesting "Prefatory Note" by Charles A. Beard, the author presents an account of the activities of the United States Supreme Court since Harlan F. Stone became a member of that body. The author shows a knowledge of the Court's opinions since 1925, and also an acquaintance with earlier opinions which are of importance in his discussion. Perhaps

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the name of the volume sufficiently indicates that Harlan F. Stone is the hero. He is, in fact, given more credit than he would have acknowledged, and the accomplishments of other judges are given little recognition. However, the volume is of interest, perhaps in part, because it specializes on one individual and analyzes his views with reference to federal and state powers, the administrative process, and the safeguarding of civil liberties. Developments in these respects may perhaps be more clearly shown by centralizing them around a single individual.

The author states that Mr. Justice Stone perplexed the Court by stressing "the need for considering all pertinent facts before reaching any conclusion," and that he "played a conspicious part in the struggle to get the Court to decide cases not on the basis of legal logic but on actual experience." Both as justice and Chief Justice, Harlan F. Stone showed a capacity to analyze facts, a capacity which Mr. Justice Holmes did not possess. Chief Justice Stone's capacity in this respect is well illustrated in Southern Pacific Co. v. State of Arizona, 325 U.S. 761 (1945), an opinion handed down since the publication of Professor Konefsky's book.

Facts and experience have been the basis of constitutional construction since an early day. The extension of admiralty jurisdiction to all navigable waters and the abandonment of limitation to tidal waters had basis in facts and experience. Cf. Genesee Chief v. Fitzhugh, 12 How. 443 (1851). And Mr. Chief Justice Stone, at the service on December 18, 1944, in memory of Mr. Justice Sutherland, called specific attention to the contribution made by that justice to the principle that if the law "is to perform a true function, it must be flexible enough to be adaptable to the changing conditions of a changing world."

There is error in the implication that Chief Justice Stone was the first and only judge who has construed the Constitution to conform to the changing facts of our civilization. With respect to interstate commerce, opinions by Mr. Justice Van Devanter in the Second Employers' Liability Cases (1912) and in Southern Railway Co. v. United States (1911) have an equal importance, although earlier and now less well known. And the same statement may well apply to the opinion of Mr. Chief Justice Waite in Pensacola Telegraph Co. v. Western Union Telegraph Co. (1878), and to a number of other cases.

The author properly praises the dissenting opinions of Mr. Justice Stone in United States v. Butler and in Minersville School District v. Gobitis—dissents which represent what is in reality our present constitutional law. He also properly praises Mr. Justice Stone's opinion for a unanimous Court in United States v. F. W. Darby Lumber Company. But it is doubtful whether Mr. Justice Stone can be credited with producing the results of Nebbia v. New York and West Coast Hotel Co. v. Parrish.

On page 82, the author speaks of a ban on "multiple taxation" being first set forth by Mr. Justice Stone in 1936, but he does not refer to Curry

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v. McCanless, in which Mr. Justice Stone in 1939 did more than any other judge to establish multiple taxation of intangibles; although in the recent case of Northwest Airlines v. State of Minnesota he, in 1944, vigorously dissented against multiple taxation of tangibles. If a new edition of this volume is printed, it will be well to discuss the whole subject of multiple taxation, and also the recent case of United States v. South Eastern Underwriters Association, in which the Chief Justice's dissenting opinion is somewhat inconsistent as to whether insurance is or is not interstate commerce. If there is a new edition, it will be wise also not to give too much weight and emphasis to one member of the Court, but also to paint his equally important influence and relations with those who served with him.

This review is not intended as a criticism of Mr. Chief Justice Stone, whose contributions are in some cases overlooked, and whose death brings a great loss to the Court. And it may be added that Professor Konefsky's book is well worth reading, although subject to some criticism, and that it gives a striking illustration of the scholarship of a blind young man who came to this country at the age of eleven.

WALTER F. DODD.

Chicago, Illinois.

Labor Policy of the Federal Government. BY HAROLD W. METZ (Washington: The Brookings Institution. 1945. Pp. ix, 284. $2.50.)

When the reader picks up this rather thin volume and glances at the comprehensive title, *Labor Policy of the Federal Government,* his first reaction is likely to be that the subject cannot be covered in 284 pages. The author has not only covered the subject, but he has done it rather well. From the point of view of precise and concise use of the English language, it could well be recommended to any class in English composition. The political scientist will find it invaluable as a reference work in refreshing his memory on such things as the principal provisions of the well-known labor acts, the court decisions on these acts, and the important regulations issued by the various labor agencies of the federal government.

Mr. Metz has stated rather modestly that "the sole objective of this study is to describe the labor policy of the government." He has done considerably more than this. A careful reading of his book substantiates his allegation that the federal government does not have a "labor policy that can be regarded as a coherent and integrated system." This situation can be attributed partly to the lack of direct constitutional power to deal with labor matters, with its resultant piecemeal legislation lending itself to inconsistencies and incongruities.

The author's approach to his subject is to treat functionally each discernible labor policy rather than to present descriptively as separate entities each of the several labor laws. The chapter titles clearly show his method: bargaining and collective agreements, government policy toward

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union organization, conditions of employment, such as union preference, wages, hours, child labor, and safety. This type of treatment indicates, for example, that it is the policy of the federal government to "encourage and promote the closed shop and other forms of union preference except in railroad transportation, where it has prohibited it." The closed shop is consistent with a policy of helping labor to increase its bargaining power, but is inconsistent with the avowed objective of the National Labor Relations Act of guaranteeing to workers complete freedom of choice in choosing its labor union. The A. F. of L. split with the C.I.O. has now changed the closed-shop policy of the government into a weapon utilized freely by each of these large unions to suppress the possible growth of its rival, and even to eliminate competition "where rival unions are affiliated with the same major organization." The author observes that if "workers are hired on the basis of union membership and discharged if they cease to remain members in good standing, it can hardly be said that they have the right of self-determination."

Other incongruities appear in governmental policy toward minimum and maximum wage legislation. Thus the government, in its various statutes, utilizes such diverse and dissimilar standards as the "prevailing wage, the prevailing minimum wage, the highest wage that will not affect employment, and a number of others. The administrative agencies concerned have given no real objective substance to these standards. In the Fair Labor Standards Act, Congress has set one general standard for the determination of minimum wages, but the National War Labor Board employed another one. Although the Fair Labor Standards Act contains a minimum wage standard of general application, Congress has established a higher minimum wage standard applicable to employees of government contractors and to persons employed by recipients of certain government subsidies." Maximum hour regulations are likewise studded with inconsistencies. For general employment, forty hours per week is regarded as sufficient, but if the worker is employed in the motor transportation field, sixty to seventy hours per week is set as the maximum, while the railroad worker can be employed eight hours a day for pay purposes and sixteen hours a day for safety purposes. Employees of government contractors, on the other hand, are separately treated in respect to maximum hour regulations.

With governmental policy as his golden thread, Mr. Metz has given us a new and fresh over-all view of our labor legislation. That this view shows labor policy to be incoherent will not alarm most of us who have a deep appreciation of democracy's ability to muddle through. By pointing up these inconsistencies, the author has certainly made the road toward consistency more visible.

CHARLES C. ROHLFING.

University of Pennsylvania.

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Justice and the Social Order. By Emil Brunner. Translated by Mary Hottinger. (New York: Harper and Brothers. 1946. Pp. viii, 304. $3.00.)

When nineteenth-century positivism destroyed man's belief in the "Christian law of nature," it sowed the seeds of discord from which we have reaped the troubles, economic, social, and political, that beset the modern world. Efforts to solve the problems of capital and labor, of social life, and of international organization, and especially the struggle against the totalitarian state, cannot succeed until we return to a belief in "an eternal standard of justice transcending all human legislation." At least these are the opinions of one of Europe's foremost theologians, who calls upon the Protestant Church to assume a position of leadership in social thinking comparable to that of the Church of Rome in the Middle Ages.

Professor Brunner concludes that "the fundamental principle of all natural law" is that "justice consists in rendering to each man his due." This does not require equality of treatment. Quite to the contrary, equal treatment is just only when the inequality of individuals may be disregarded; the true rule must be, "all alike, respect being had to their inequality." The "equality of man" is merely an equality of dignity; it was the will of the Creator that men should be neither self-sufficient nor equal.

Unlike many natural law philosophers, Dr. Brunner does not spin out a fine web of "individual rights" from his natural law dogmas. These do, however, guarantee that "what a man has earned belongs to him, he has a right to it," since "private property is a right established by creation." Religious toleration is the most fundamental of all rights to freedom, since without it man could not fulfill "the end to which the Creator created him."

Although the state is recognized as God's ordinance, not man's creation, and hence with God's will as its only limitation, the family, rather than the state, is the primal community. Accordingly, its rights, including freedom from eugenic control and its mastery over the children, takes absolute predominance over the rights of the state. The structure of the family, which is one "of service, a community of completion," is the key to the proper structure of society. "A true social order" is that community of man in which every single member of the community has his own place, his 'station'," just as the father, the mother, and the child each has its own "station" in the family. Again: "The economic order which is patriarchal in the true sense of the word, which combines responsible freedom of action on the part of the chiefs with graded responsibility towards the common interest on the part of the workers, is a just social order in the economic sphere."

The writer's efforts to apply his doctrines to the international sphere are just as vague and profitless. "Just international law" is defined as "an ordering of international relations which shall render to every nation

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its due, its rights to freedom and its duties to the community." But what is a "nation"? What is "due" such countries as the Dutch East Indies (individually or collectively), Iran, Argentina, or Greece? What are the "duties" of Russia, Spain, or the U.S.A. to the world community? Unfortunately, he finds, the Scriptures give few hints to help us in the international field; on the contrary, they merely promise us that world peace is an idle dream, "dangerous and fantastic" to imagine.

Dr. Brunner concludes by delivering the *coup de grâce* to his starting premise that "no reconstruction can be based on the maxim that justice is a relative thing." Not only are we told that "the law of nature must claim no binding legal force for itself," but also that justice, in practice, must be "relative justice, which is just in reference to a reality which has fallen away from the order of creation. . . . (Thus) where sexual immorality and the decay of the community are far advanced, a marriage system attempting to enforce . . . the indissolubility of marriage . . . would have the contrary effect to that intended. . . . A few blind fanatics of justice can ruin a state, a custom, or a social order more thoroughly and more expeditiously by their fanaticism for absolute justice than a host of ill-intentioned revolutionaries." And if the Roman Empire of Nero was "an ordinance of God," who was to say that Hitler's Germany was not also, until God broke that ordinance by force of Russian, English, and American arms? Many will put down this book with the conviction that they have been left where they started, relatively unaided by "what is required by Christian faith," at least as it is presented in this treatise.

J. A. C. Grant.

University of California at Los Angeles.

Political Reconstruction. By Karl Loewenstein. (New York: The Macmillan Company. 1946. Pp. xii, 498. $4.00.)

Although observers are inclined to deplore the failure of the victor nations to arrive at definitive peace settlements with greater dispatch, the prolonged hiatus between the end of hostilities and what we hope we shall sometime be able to call the state of peace has at least permitted Professor Loewenstein to get this timely book before the public before all the decisions have been made. For this is a volume the contents of which all should ponder, and particularly those whose immediate responsibility it is to take the decisions designed to secure free government and peace in the world. Its central thesis is that we must exorcise from diplomatic verbiage and practice the principle that a nation's form of government is its own business and courageously adopt the view that the community of nations must intervene to secure bona fide democratic forms of government everywhere. Unless this change is made, the author declares, free democratic government cannot survive and peace, which in his opinion

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depends upon the universality of such a form of government, is impossible. In other words, in the interests of peace, Professor Loewenstein proposes to limit the internal sovereignty of states. In so doing, he has taken a considerable step beyond those who believe that world concord can be gained by diplomatic pressures and processes and by the ultimate sanction of force offered by the United Nations organization. But poorly concealing his pessimism about the effectiveness of this organization, even if all its members pass the test inherent in that truly wonderful piece of diplomatic jargon, "a peace-loving nation," he insists that the only satisfactory assurance of peaceful intent is the existence everywhere of a political order that allows for effective popular control of government.

What is particularly persuasive about Professor Loewenstein's thesis is the immense hisorical scholarship to which it is anchored. Few writers on nineteenth-century political history match the clarity and vigor of his literary style; few have approached the task of interpreting such history with more penetrating acumen and historical intuition. The result is one of the most significant books in the fields of international relations and comparative government that has been produced in many years. Some of its readers (this one excepted) may doubt that world peace depends on the universal prevalence of popular political institutions; some may doubt that intervention to promote democratic legitimism in our century has much more chance of success than had the efforts of the Concert of Europe in the nineteenth century to preserve Metternich's dynastic legitimism. But none will be able to deny that world intervention to secure relative uniformity in the domestic institutions of a state has ample precedent, or that the use of such intervention in the interest of a democratic world order has much to commend it.

To the foregoing, this reviewer is constrained to append a rather lengthy footnote of regret that Professor Loewenstein has not been more explicit about the relation of his interventionist doctrine to the solution of the problems of the moment. He warns us as to what must be done about neo-Fascist movements and his prescriptions for action are admirably blunt. His analysis of the democratic liabilities of monarchy in general and of the current monarchist restoration movements in particular is the most masterly thing of its kind. In other words, towards what might be called the democratic enemies of the right, Professor Loewenstein has been admirably forthright and quite in keeping with the boldness of his doctrine of intervention. But when it comes to that other contemporary challenge to the free democratic state—that inherent in Stalinism or what is popularly known as soviet communism— the author seems peculiarly ineffectual. Although he recognizes that Communist parties were wreckers of democracy before the war, he appears to believe that the Communist danger outside of Russia has evaporated. At any rate, he declares that since the

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dissolution of the Communist International on May 22, 1943, ". . . there has been no foundation for the charge that the Soviets still use the National Communist parties to influence internal politics" (p. 73). As to the question whether Russia herself might pose a problem in logic for one who preaches intervention to secure democracy, his answer is that "some people would tell you that the differences between the Soviet democracy(sic) and ours are more apparent than real. We have to wait until conditions inside Soviet Russia can be studied" (p. 395). And as to the question of democratic intervention in Russia, his reply is that such a question must be regarded as "speculation" that "should be left to the radio commentators" (p. 396).

Professor Loewenstein, of course, has a right to his opinion or lack of opinion as to the implications of his book on this question of the reconcilability or irreconcilability of soviet communism and free government. But such comment as he makes on this issue, it is submitted, is more appropriate to the language required by diplomatic protocol or to the exigencies of what passes currently as "political realism" in circles less rarefied than diplomacy, than to the luxury of detachment and objectivity which a scholar can and ought to afford. The author's performance at this point is particularly surprising in view of the implications of his general thesis and his well-earned reputation as one of our leading authorities on the techniques to be employed to defend democracy against overt assault. In justice to Professor Loewenstein, it remains to be pointed out that he must have written most of his book in 1944, whereas this review has been written in 1946.

ARNOLD J. ZURCHER.

New York University.

Propaganda, Communication, and Public Opinion; A Comprehensive Reference Guide. By BRUCE LANNES SMITH, HAROLD D. LASSWELL, AND RALPH D. CASEY. (Princeton, New Jersey: Princeton University Press. 1946. Pp. vii, 435. $5.00.)

This volume is a continuation of the work begun by the authors in *Propaganda and Promotional Activities; An Annotated Bibliography*, published by the University of Minnesota Press in 1935. Prior to that time, public opinion research had been greatly handicapped by the lack of a central source to which scholars could turn for comprehensive bibliographical assistance. This bibliography helped to define the scope of the field, and to broaden the perspective of many students of the subject. The editors of *The Public Opinion Quarterly* considered this bibliographical guide so important that they undertook, with the assistance of Dr. Bruce Smith, to keep it up to date with quarterly supplements. The authors and

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the Princeton University Press are to be congratulated for bringing out this second volume. The two volumes are indispensable tools for social scientists, and the series should be continued.

The present volume consists of four introductory essays (117 pages) and an annotated bibliography of 2,558 titles (263 pages). Dr. Casey's essay on "Communication Channels" reviews recent trends in the communications field with a degree of balance and discernment which years of scholarship and journalistic experience make possible. It is an excellent orientation lecture. With his usual originality and imaginativeness, Dr. Smith presents data concerning "The Political Communication Specialist of Our Times" which, as interpreted, are little short of sensational in their implications. In two essays, Dr. Lasswell discusses with a nicety of expression and a preciseness of terminology two research problems on which he and his associates have made significant progress: (1) describing the contents of communications, and (2) describing the effects of communications.

Although the introductory essays are stimulating samples of the original thinking and analytical powers of the authors, their appropriateness, except for the first, as introductory statements for a bibliography of this nature will probably be questioned. They have distinctive merit as individual papers. They fail somehow as 'introductions.' It is difficult, however, to inject a critical note in view of the excellence of the volume as a bibliography, and the excellence of the articles in a less challenging environment. It is obvious that the quantity of publications dealing with propaganda, communication, and public opinion is growing at an accelerating rate. What are the changing trends in the focus of attention? What research areas are being neglected? What progress is being made in solving vital problems? What about progress in methodology? Doubtless many of the answers to these questions may be found by a diligent examination of the bibliography. But a bibliography often finds it difficult to speak for itself.

As a reference guide, the present volume is in several respects an improvement over the first. Although the general classification plan is the same, subclasses have been altered and to some extent simplified. The indexing of subjects is more comprehensive. Bibliographical entries are numbered consecutively. A special effort has been made to identify the authors of entries, either by pertinent information in the annotations or by indications showing where such information may be obtained. A noteworthy feature of the present volume is the starring of 150 titles which in the opinion of the three authors are the most outstanding. This will be a real service to many on the threshold of public opinion research and a source of gratification to the authors selected.

Bibliographies are usually a delight to scholars. This one will prove no

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exception. The Princeton University Press has done an attractive job of book-making; a bibliographical framework, cutting across so many traditionally separated fields, stimulates reflection on new relationships; and reading page after page of Dr. Smith's concise annotations is a most rewarding experience. The hope of the authors has been realized. The book is "a kind of treatise and reference guide in its own right—at once comprehensive in scope and specific in its citations."

HARWOOD L. CHILDS.

Princeton University.

New Horizons in Public Administration. BY LEONARD D. WHITE, MARSHALL E. DIMOCK, DONALD C. STONE, GORDON R. CLAPP, JOHN D. MILLETT, AND ARTHUR W. MACMAHON. (University of Alabama Press. 1945. Pp. 145. $2.00.)

As explained in the foreword, these six lectures were given by "six outstanding students and practitioners of public administration" at the University of Alabama as a feature of the Southern Regional Training Program in Public Administration. This is also the first publication of the University of Alabama Press.

The only discernible thread of continuity is that stated in the title, "new horizons." The horizons are new in the sense that, although we have long known about them, we simply have not moved toward them. They are rarely new in the sense of fresh discovery. But if the horizons are not so new as the title may imply, the lectures are nevertheless useful, suggestive in a new synthesis, and eminently worthy of the wider circulation which this book form will make possible.

Some of the newest horizons are explored in Marshall E. Dimock's "Administrative Efficiency within a Democratic Polity." To achieve executive coördination through the President, Dimock proposes that the Constitution be amended so as to make the Vice-President "the operating vice-president who would coördinate the administrative branch under policies and directives decided upon after consultation with the President." The President would be freed for attention to his numerous other essential duties, including more time with a cabinet revitalized into "the second great coördinating agency." Since the emphasis is on "operating" and comparison is made to the operating vice-president of a large corporation, the new Vice-President is apparently to become a manager, the real chief administrator, because the President's "other essential duties" are spelled out as chief legislator, leader of foreign affairs, political chief, commander-in-chief, and ceremonial head. However desirable this end may be, the question remains as to whether the present political means are adequate? Can we depend on any man the national party convention turns up? Or would the President himself depend on him? It is difficult to visualize the Roosevelt smile over John Nance Garner as national general-manager.

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Would Mr. Stassen, or perhaps many of the rest of us, be happy with Mr. Bricker as national manager? Mr. Bricker might be most unhappy of all, "under policies and directives decided upon after consultation with the President." In other words, this proposed solution of the problem of executive coördination raises questions of the same kind as those sharply raised by Dimock against the six executive assistants with the now-famous passion—questions of assuring harmonious, time-conserving, and confidence-inspiring relations between the President and his aide or aides, whatever their titles may be.

In his paper, "Legislative Responsibility for the Public Service," Leonard D. White thinks the next major development in the improvement of administration depends on reform of the legislature and removal of the legislative strait-jacket which has been placed on administration. Both he and Dimock echo John Stuart Mill's conviction that the legislature should control rather than administer—see that the work gets done rather than do it.

In his "Notes on the Governmental Executive," Donald C. Stone offers a practical and thought-provoking analysis of the proper rôle and methods of the administrator. He emphasizes a point which, if more widely adopted, would revolutionize some agencies in Washington and elsewhere: "The job of the executive is to create an environment conducive to concerted effort in pursuit of the organization's objectives." "The product of any organization is an institutional product, not the executive's personal product."

The familiar problem of reconciling function and area is treated in Arthur W. Macmahon's "Function and Area in the Administration of International Affairs" and John D. Millett's "Field Organization and Staff Supervision." The former deals with problems of the Department of State and the Foreign Service; the latter gives a new emphasis by strongly advocating the adoption of "a theory of dual supervision," which recognizes that supervision comes from specialty as well as from hierarchy. In "The Administrative Resources of a Region," Gordon R. Clapp explains the implications of TVA's experience in intergovernmental relations.

One can only hope that the University of Alabama Press will continue to make contributions as useful as this, its first venture.

ELDON L. JOHNSON.

University of Oregon.

American Foreign Policy. By EDWIN BORCHARD. (Indianapolis: The National Foundation Press. 1946. Pp. viii, 69. $1.00.)

The National Foundation for Education in American Citizenship, through its National Foundation Press, has sponsored and published a series of brief and introductory volumes on the more important issues be-

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fore the American people. To its credit, the Foundation has selected authors who are outstanding authorities in their respective fields, and who, while taking account of the election returns, are not controlled by them.

Professor Borchard has set forth, in brief historical survey, the main principles of American foreign policy as they originated, evolved, and ripened into our contemporary experience. He begins properly with non-intervention, neutrality, and recognition, three different but related policies which grew out of our first definition of relations to European affairs after the establishment of the new government under the federal constitution. After an experience with the French Alliance, admittedly advantageous to us, the statesmen of the day determined to follow non-intervention as regards European wars and balances of power; to declare neutrality in relation to European wars; and to recognize the government actually in power and exercising control as the legitimate one, thus avoiding the consequences of dynastic succession as the test of recognition. Whatever may be said for our policies today as compared with these policies, it cannot be denied that these historical policies, as applied then and until recently, served the interests of the United States adequately and well.

Other chapters deal with the Monroe Doctrine, the freedom of the seas, arbitration, expatriation, territorial expansion, Pan-Americanism, the Far East, and other American policies. A final chapter deals with the influence of the United States. This closes the historical and analytical discussion of our policies down to 1914.

Part II deals with the change in American foreign policy, beginning with World War I in 1914, and ending in the functioning of the United Nations Charter in 1946. In a word, it is a record as well as a criticism of our abandonment of non-intervention and neutrality, and our commitment to a policy of intervention. There is some discussion of League failure and United Nations inadequacy.

Part III analyzes our recent commitments and developments in the light of international realities, and in the light of international law. We cannot, the author indicates, make international progress against the means of power possessed by the sovereign state, and in advance of their relaxation or relinquishment, no matter how impressive the organizational set-up.

All that Professor Borchard charges is too true. What seems difficult to understand is his contentment to leave things as they are.

CHARLES E. MARTIN.

University of Washington.

Law and Orders. BY CARLETON KEMP ALLEN. (London: Stevens and Sons, Ltd. 1945. Pp. xvi, 385. 15s.)

Dr. C. K. Allen, Fellow of University College, Oxford, Secretary to the

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Rhodes Trustees, and Warden of Rhodes House, Oxford, remarks in his preface: "Emergency legislation, however, is only an intensified form of a process which has been long developing; and it is the object of this book to trace that process in the past and to suggest its constitutional implications both in the present and the future." This study takes its place on the shelves with such earlier books and documents as the Report of the Committee on Ministers' Powers and those by Lord Hewart, Professor Robson, and Sir Cecil Carr, to refer only to the English issue and the writings it has stimulated. Its special virtue is the detailed survey, documented by statutes, rules, and decisions, which it contains of the delegation of powers to executive agencies or to the Crown generally, and of the extent of discretion left to them not only by the statutes but also by decisions of the courts.

In his earlier chapters, Dr. Allen first surveys briefly the evolution of delegation of legislation from early times down to the war, then analyzes the types of legislative and judicial power which have been delegated; and Chapters V and VI present a description of the present relations of the executive and Parliament and of the problems involved in this relationship which remain for future solution. Among these are the familiar ones of the drafting of orders, legislation by reference (with a superb example taken from an order relating to the "Control of Tins" presented on page 118), technical subject-matter, parliamentary time, and parliamentary procedure. The larger question of "The New State" (p. 129), or the possible existence of a new kind of society and therefore perhaps of the necessity for a new kind of state, is raised but not explored. Nor is the present situation compared with the conditions surrounding the growth of a central and local administrative system in the earlier days of the modern national state of a type which we have long termed, in our jargon, "mercantilist" or "cameralist." A longer chapter reviews the relation of the judiciary and the executive. The American student concerned with these issues, yet not a specialist in English constitutional law, will find of particular interest and value the presentation and discussion of major decisions affecting them, brought down to recent years. The emphasis is on the procedural problem as it relates to fundamental constitutional apportionment of powers and functions, so that an analysis of a particular substantive problem, such as housing or marketing of milk, is necessary if a total evaluation of what is happening to the processes of government is to be made.

Dr. Allen's concluding criticisms, based upon a clear recognition of the existence of "administrative law," do not contain a recommendation for a separate court similar to the Conseil d'État in France; and he urges the view that the judicial system is a separate power and function of administering justice (in these matters) in the relations between citizens and officials and not an added arm of the government of the day in support of

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its policies. This leads him to a discussion, in the following chapter, of "the public and the executive," in which the civil service is described briefly and the conventional views of its inadequacies are presented. He rejects the more dramatic "conspiracy for power" theory; it reappears, in weakened form perhaps, in his generalization that "the power behind the throne is to some men the sweetest kind of power. This the permanent official may possess in a very high degree." His note of the interests that are "unrepresented" in consultations in rule-making strikes a tender point to anyone familiar with the difficulties of safeguarding consumer interests.

The experience in delegated legislation and its enforcement during the war, and judicial decisions arising therefrom, are naturally so extensive as to warrant the separate chapter on this subject. The author's approach is exemplified in his remark (p. 233) in speaking of the War Agricultural Executive Committees which had such great responsibility in food production, as well as great power, that he "is not sufficiently acquainted with agriculture to venture any opinion about the general efficiency of the Committees." But here again, in any total appraisal of these developments, must we not include a knowledge of the substantive task which the people, through their government, are attempting? And is not the criterion by which such agencies are to be judged one of attainment of the end as well as the procedural means? "If large agricultural schemes are contemplated after the war," he continues, "it would be a grave constitutional issue whether the largest industry in the country should be allowed to remain under this type of dictatorship." Is dictatorship the correct term? Or does it tend to inhibit fruitful exploration of the best use of legislative, judicial, administrative and interest-group relationships that a knowledge of and concern for food production might stimulate political scientists to attempt? To evaluate the strength and weakness of our own AAA organization and procedures will require a nice supplementing of workers trained in both natural and social sciences as well as lawyers and administrators and legislators.

A chapter on "The Fountain of Justice" precedes the final chapter of conclusions. The title is cryptic, and the central problem discussed, that of the responsibility of the Crown and of the departments to the courts for wrongs done to citizens, so that the latter may obtain rights and remedies, reveals again the complexities and confusions of the present state of the laws.

In his conclusions, Dr. Allen lists several "immediate reforms" of a procedural type which do not raise larger questions of policy and political theory. Most of the proposals will be familiar to students of the problem. His discussion of the "limits of state control" is brief, and too lacking in treatment of substantive issues (there is, for example, only a short and

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facetious reference to some marketing regulations); and the same brevity and superficiality characterize his treatment, in the remaining thirteen pages, of such important topics as the functions of the legislature and the executive, judicial control, jurisdiction in administrative law, "the man versus the state," and the "future of parliamentary government." These pages bristle with generalizations that invite question and argument, to which doubtless the author would contribute with urbanity and learning. But that would require another book. On the larger issues of political theory, and of the substantive problems out of which these procedural and organizational problems arise, he has little in this book to give us. But he does present most usefully an account of the procedural developments, the problems they raise, and some practical suggestions for reform. The book is valuable for students not only of British and comparative government, but also of our own, since the problems are universal.

JOHN M. GAUS.

University of Wisconsin.

International Law: Vol. I, International Law as Applied by International Courts and Tribunals. BY GEORGE SCHWARZENBERGER. (London: Stevens and Sons, Ltd. 1945. Pp. xliv, 654. £3.)

International lawyers have usually leaned to "naturalism," which emphasizes the logical consistency of rules with the values professed by the world community, or to "positivism," which emphasizes actual practice or, among continental jurists, state sovereignty thought to be supported by that practice.

Professor Schwarzenberger proposes to follow the method of positivism in a comparative spirit. The present volume systematizes international law as it emerges from the practice of international tribunals. It is to be followed by two further volumes systematizing international law as it emerges, respectively, from the practice of the British government and the practice of the British courts. It will be interesting to observe the degree to which the basic values and principles of the systems of law developed from these three different sources prove to be similar or different. It is possible that when the task is complete, Professor Schwarzenberger will be able to give new insights into international law, though for most practical uses the traditional type of text will probably be more useful. Users of treatises on international law usually want to see materials from all sources assembled about each point so that they can formulate a rule supported by the weight of evidence.

The present volume, however, is stimulating and valuable in itself. It indicates the surprisingly broad range of topics in international law which

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have been dealt with by international tribunals. The author has utilized some 400 decisions of such tribunals—about 100 from the Hague Court of Arbitration, from the Permanent Court of International Justice, and from the administrative tribunal of the League of Nations; about 150 from the mixed arbitral tribunals established by the treaties ending World War I; and another 150 from special international tribunals. The book constitutes an admirable index to the law to be found in these opinions.

The classification of the volume follows the traditional plan, with such sections as the foundations of international law, international personality, state jurisdiction, objects of international law, international transactions, and war and neutrality. But there is a long section on the law of international institutions which sets forth the growing body of procedural law applicable to judicial, administrative, and quasi-legislative international organs.

The author maintains a commendable objectivity in presenting his materials. The book abounds with brief but pertinent quotations. Only occasionally does the author's own opinion appear, as, for instance, in his discussion of the classification of international institutions, and his suggestions that there are "essential differences between society and community laws," that "rather narrow limits" are "set to international law within a system of world power politics" (p. 338), and that the legal problems of the League of Nations are likely to be relevant in the future even though the League itself failed in its attempt "to transform into an organized society of states the 'great community of nations' which had grown up in a haphazard way in the course of the last four hundred years" (p. 458).

In general, it cannot be said that international law as interpreted by international tribunals differs radically from international law as expounded in traditional textbooks. The main difference is probably in the greater attention to international procedures, the lesser attention to fundamental rights of states, and the superior certainty and consistency of the rules. In spite of the acceptance by international tribunals of the thesis of state sovereignty and the presumption that agreements qualifying that sovereignty are to be interpreted restrictively, international tribunals have approached their problem, not with a bias toward exaggerating national rights, but with the effort to interpret customary and conventional rules so as to give full effect to the intention which the states had when they accepted those rules. The common purpose of the parties bound by the rule tends, therefore, to control, rather than the desire of one of the parties which subsequently finds the rule burdensome. The volume presents convincing evidence that international law would prosper if international tribunals played a larger rôle in its application and development.

The book is well indexed and the appendices include the constitutional

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texts of the Permanent Courts of Arbitration and of International Justice, as well as the opinions in seven important cases decided by international tribunals.

QUINCY WRIGHT.

University of Chicago.

Foundations of National Power; Readings on World Policies and American Security. EDITED BY HAROLD AND MARGARET SPROUT. (Princeton, N.J.: Princeton University Press. 1945. Pp. x, 774. $4.25.)

In the past, the study of international relations has revolved about a congeries of abstractions called "states." Relatively little attention has been paid by students and teachers of the subject to the composition, philosophy, geography, and resources of the human communities which underlie these abstractions. Differences of power were of course recognized, but not much attempt was made to break down national power into its elements or to provide the very complex yardstick by which alone it can be even approximately measured.

This collection of readings marks, and will help to consolidate, a new approach. It perpetuates the stimulating new emphasis brought into this branch of political science by the Navy's demand on universities during the war. Where this lead is followed, the undergraduate will no longer be thrown into a labyrinth of disembodied concepts; he will be given a chance to see the world of nations as it is, and to appreciate both the material and the immaterial factors which determine the rôle of each nation in world politics. A long step has been taken toward a sound introductory course in international relations.

The method employed by the editors of this volume was to compile geographical, political, economic, and social analyses of the principal regions and greatest countries of the world. The result is a large body of good and instructive reading. But the method entails much repetition that might have been avoided if, for example, fewer descriptive articles and more official statistics had been reproduced. This, in addition to reducing the bulk of the text-book, would have had the advantage of presenting the student with some basic documentation to vary a somewhat overwhelming mass of secondary sources. In a second edition, I should also plead for more texts of treaties and declarations and fewer descriptions of their content. On the difficult question of maps, any author or editor may well be sensitive, but special effort should be made to include more and better. The distribution of population, resources, industry, and transportation is not adequately shown in this volume. And was it necessary to choose a map of the Mediterranean which fails to show Malta, or a map of the Soviet Union which does not show a single Siberian city?

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The book goes beyond the scope suggested by its title when it devotes its fifth and last Part to "The Foundations of Peace and a New World Order." This is the least adequate section. Obviously, it was prepared before the San Francisco Charter was in circulation. But the Dumbarton Oaks text, with appropriate commentary, would have given a far more complete indication of the prospect that some organized restraints on the arbitrary use of national power may yet be made effective.

PERCY E. CORBETT.

Yale University.

Soviet Politics At Home and Abroad. By FREDERICK L. SCHUMAN. (New York: Alfred A. Knopf. 1946. Pp. xxii, 663. $4.00.)

U.S.S.R. Foreign Policy. By VICTOR A. YAKHONTOFF (New York: Coward-McCann, Inc. 1945. Pp. xiii, 311. $3.50.)

The Soviet Union, from the first days of its debut on the stage of history, has produced major perturbations in the world of scholarship, as well as of affairs. It has inspired passionate affirmations of faith and equally passionate denunciations. What it has not thus far inspired is a literature of cool appraisal which seeks an understanding of Soviet realities and dynamics transcending both fears and hopes.

These books by Yakhontoff and Schuman must be classified with the works of faith. Of the two, the volume by Yakhontoff is by far the less sophisticated and interesting. What Yakhontoff has provided is essentially a recapitulation of the foreign relations of the U.S.S.R. from an official Soviet point of view. The vaunted Soviet self-criticism is notable by its absence. One is led to suspect that even the Narkomindel would be embarrassed to claim the prescience and foresight which Yakhontoff ascribes to it. His account draws largely on secondary material already available in English. Scholars who seek new light on Soviet foreign policy will have to look elsewhere. Such virtues as the volume possesses are two-fold: (1) it provides a useful means of checking the official rationale of Soviet foreign policy in the course of its development; and (2) it is rich in extracts from speeches by Soviet statesmen and may thus serve as a convenient reference source for such material.

The Schuman volume is history and interpretation on a more challenging level. Written with all the fire, the force, and the eloquence that one has come to expect from Schuman, the book nevertheless manifests weaknesses of analysis that are not altogether obscured by its rhetorical brilliance.

The analysis, particularly in internal affairs, is vitiated by a curious dichotomy. Essentially, Schuman cannot make up his mind whether the Soviet polity is a dictatorship or whether it embodies a new and higher

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form of democratic leadership. Writing from the vantage point of a professed adherence to Western liberal values, Schuman seeks at one and the same time to differentiate the U.S.S.R. from the West and to equate its values and objectives with the loftiest aspirations of Western liberalism. Thus illiberal methods are justified in terms of their liberal ends. Thus dictatorship is both explained and explained away.

To explain the Soviet dictatorship in terms of the historical forces which molded it is an altogether legitimate enterprise. But it becomes a very dubious analytical *tour de force* when exclusive responsibility for Soviet "totalitarianism" (p. 126) is placed on the wars of intervention and counter-revolution, while *en passant* (p. 39) Schuman reports that "democratic virtues are conspicuous by their absence in the history of the R.S.D.L.P., both before and after 1917, and (p. 583) "the dictatorship" of the Communist party is declared to be "not an accidental feature of Socialism in the U.S.S.R. but a pre-condition of its success." Other examples of this strange ambivalence can be cited. On p. 208, Schuman, speaking of the "uncritical adulation of the individual who occupies the highest position in the State," points out that "this situation has come to prevail by virtue of the transformation of the dictatorship of the proletariat into the dictatorship of the Party, with control of the Party transformed in turn into a close facsimile of a personal dictatorship." But on p. 585, "ditatorship" in Soviet society is declared to be not a formula for "tyrany." "It is rather the means of integrating *élite* and mass, preserving the true faith, promoting high morale and group purpose, maintaining discipline and *élan*, and evolving and administering the broad All-Union directives for serving the general welfare and the common defense. . . . The U.S.S.R. is a democratic polity—in its ends and in its achievements, if not always in its means."

If this citation of conflicting texts seems to border on carping criticism, it serves at least to illustrate the hazards of riding intellectual horses in all directions at the same time. The fundamental difficulty is that Schuman's hopes and aspirations for democratic development in the U.S.S.R. lead him to obscure, play down, and ignore dictatorial realities. He is never quite prepared to face squarely the problem of whether any party which has achieved a monopoly of legality will voluntarily abdicate supreme power.

Schuman is at his best in his treatment of Soviet foreign policy. Writing out of a rich background of intimate acquaintance with diplomatic developments between the wars, Schuman presents a sympathetic, but not wholly uncritical, portrayal of the rôle of the Soviet Union in world affairs. Thus, discussing the Finnish war of 1939–40, he concludes ". . . whatever judgment may be passed upon the goals of Soviet policy in dealing with Finland, the verdict regarding the means employed is scarcely debatable:

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they were lawless, stupid, costly, and dangerous, and represent the most striking instance in Soviet diplomacy where action was based upon misinformation and a tragic miscalculation of probable results" (p. 385). The Soviet rejection in the post-World War II period of the possibility of World Federation is criticized as "unrealistic and disruptive" (p. 530), though blame for the failure of Dumbarton Oaks and San Francisco to produce a World State is equally and properly apportioned among all the Super-Powers.

With the repudiation of a World State by the Super-Powers, Schuman argues that the preservation of peace remains possible only through their united action. Such united action, he believes, must rest on a recognition of Soviet hegemony in the Balkan and Danubian areas and Anglo-American mastery of the Western and Mediterranean regions. "Joint trusteeships are urgently called for in as many intermediate regions as possible. For the rest, lines of demarcation, agreed upon, clearly drawn, and scrupulously respected, are required, for without them there can be no escape from friction, rivalry, and eventual conflict" (p. 609). In placing his faith in a Concert of Powers, based on a system of mutually exclusive spheres of influence, Schuman recognizes that he is leaning on a slender reed. He knows that a Concert breaks down when one or another of its members sets a course of dynamic expansionism. His own clear preference is a World Federation. But, given the present outlook of the Super-Powers, he sees no feasible path to its realization save as it may develop out of creative and friendly collaboration among the Powers in the solution of common problems. From this general judgment, there can be no rational dissent.

Altogether, Schuman's volume, for all its rhetorical flourishes and flamboyance, is at present the most interesting and challenging treatment of Soviet foreign policy available in English. Its analysis of Soviet domestic developments is less satisfactory. It is marred, not only by a fundamental ambivalence of viewpoint which Schuman never successfully resolves, but by a lack of the kind of first-hand familiarity with Russian sources which gives such a volume as Sir John Maynard's *The Russian Peasant and Other Studies* (unhappily not yet available in an American edition) its air of quiet authority.

MERLE FAINSOD.

Harvard University.

Italy and the Coming World. By DON LUIGI STURZO. (New York: Roy Publishers. 1945. Pp. xiii, 303, $3.50.)

Here is a rare combination—the moralist, the scholar, and the politician. One is irresistibly reminded of Mazzini, which means a devoted Italian patriot who is at the same time an enlightened European and a

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cosmopolitan in philosophic breadth. Both spent many years in exile, misunderstood, rejected of men. Both inspired and contrived high-souled effort for the cause of human liberty.

As we learned from his valued earlier book, *Italy and Fascismo* (1926), our author is to an extraordinary degree candid and fair to his unfair opponent, forgiving, understanding, supple, often subtle, yet always hewing strictly to the line of political morals.

A churchman, he became one of the most potent parliamentary politicians in post-war Italy. But his apostolate of national renovation in a new world, his planning and contriving for democracy which should be under Christian auspices but free from the trammels of clericalism, made him the most feared and hated rival of both Giolitti and Mussolini. The former used the latter to get free from Sturzo's Christian Democrats, and then himself succumbed to Mussolini's anarchic personal ambition. Mussolini found the *Popolari* ideal an intolerable rival of his own pseudo-patriotism and brutally swept it away, the Vatican prudently looking in another direction, perhaps already toward the Lateran Accord.

After twenty years of exile, in France, Britain, and America, Sturzo now returns to his beloved and distracted Italy, with wise counsel to those who would restore her stricken spirit and body politic. He knows her intolerable difficulties, internal and external, and he lays them bare, not in self-pity but in hope. A second Risorgimento miracle should turn dead men's bones into living warriors for freedom, for Italy's sake and for Italy as a stabilizing factor in Europe and the world. He does not fear far-reaching political and economic reforms; he fears demagogy, of either Right or Left, and especially he fears a relapse into totalitarianism.

But the word fear does not accurately represent his attitude, in any respect. Fear was what betrayed the bourgeois in 1922 into abandoning democracy and thinking they could safely make terms with absolutism. Fear is what gives English statesmen an animus of resentment against Italy, and thus contributes to the fatal, harsh incomprehension of American military authorities, their continued treatment of Italians as enemies, their inability to distinguish between the Italian people and the Fascist criminals.

As for the new constitution to be drafted, Sturzo's advice is full of wisdom and moderation. Any monarch would "represent that past which must perish." A bicameral parliament would have stability; a Chamber elected by universal suffrage, male and female, under proportional representation; a Senate elected indirectly by representatives of local entities, universities, employers' syndicates and trade unions, with coöpted representatives of the judiciary, the civil service, and the Church. The author favors a seven-year presidential term, the referendum, a Council of State to pass on unconstitutionality. As would be expected

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from his parliamentary record of twenty-five years ago, he urgently desires a reform of administration, with *regions* constitutionally established, possessed of autonomous administrative and economic powers, effectuating a moderate balance between the province and the whole realm, stimulating an *esprit de corps* and sense of responsibility on the local scale, guarding against the evil of excessive state centralization, with its congestion at the center and anæmia at the extremities.

Here are his very last words, after facing the incredible difficulties of reconstruction: "The more difficult the first steps of a new life, the more necessary will be good will and faith in the future."

HENRY R. SPENCER.

Ohio State University.

Japan's War Economy. BY T. A. BISSON. (New York: International Secretariat, Institute of Pacific Relations; distributed by the Macmillan Company. 1945. Pp. xv, 267. $3.50.)

Few situations emerging from the late war present greater difficulties or bring forth more diverse opinion among both "experts" and laymen than that posed by the question: "What shall we do with Japan?" It is important, of course, in any effort to answer this question that we should understand the character of the economic structure as it developed in Japan during the war. The present volume is an exposition and analysis of Japan's evolving war economy. To this point it is a welcome and substantial contribution, despite the paucity of sources available when the study was in preparation; and the author is at pains to make this limitation clear.

After tracing the early growth of the demand for economic controls and the economic setting in which the control problem arose, the author develops a well organized discussion of the control plans of the *Zaibatsu*, the Hoshino plan, the Major Industries Association Ordinance, the development of the cartels, the reorganizations of the cabinet and the creation of the Munitions Ministry, and the "nationalization" of industry. Mr. Bisson is to be complimented on the manner in which he has assembled a rich, factual narrative here presented for the first time. The treatment of the reorganization of Japanese heavy industry in its broader administrative aspects is the major contribution of the study. Mr. Bisson makes it clear that: "Up to the outbreak of the Pacific War, the great monopoly enterprises of the *Zaibatsu* operated very largely as autonomous units, linked neither with each other nor with the government through any effectively coercive administrative authority. In 1944–45, the designated enterprises, embracing the major sectors of Japan's industrial economy, were operating under the directives of the Munitions Ministry. . . . "

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Mr. Bisson's conclusions, while provocative and suggestive, are, at best, only a partial answer to the Japanese problem. Most students of Japanese affairs will concede the desirability of breaking the *Zaibatsu* and the vastly increased economic and political strength they acquired before and during the war. It remains to be seen, however, whether future research will confirm the author's contention that it was the business group in Japan's ruling coalition which called the tune both during the war and for many years preceding it (p. 203). By implication, rather than by direct assertion, the author conveys the impression of discounting the force of Japan's long military tradition with its concomitants of chauvinism and parochialism, not to mention its peculiar feudal and constitutional features which colored so effectively the whole national character. It may be acknowledged that the *Zaibatsu* were among the principal villains. Whether *as an economic class or group* their rôle was as preëminent and as distinct as here suggested is open to question. Nevertheless, Mr. Bisson's position is quite clear. "Since the twenties this class [the industrial leaders], and not the military, had been the dominant political force in Japan" (p. 143).

Additional factors in the author's solution of the Japanese problem—factors which are not elaborated in this study—include discarding the 1889 constitution and the old bureaucracy. How this latter is to be eliminated is not discussed. Finally, "a constitutional assembly, freely elected by the Japanese people," should "establish the foundations of a new democratic régime." In this procedure, the author sees hope for "genuine nationalization measures for large-scale industry which will shake loose the grip of the *Zaibatsu* and thus permit the development of a Japan that can enter into normal and peaceful relations with the other members of the world community."

PAUL H. CLYDE.

Duke University.

A History of Western Philosophy; And Its Connection with Political and Social Circumstances from the Earliest Times to the Present Day. By BERTRAND RUSSELL. (New York: Simon and Schuster. 1945. Pp. xxiii, 895. $15.00.)

Bertrand Russell's standing as a philosopher in his own right, and the fact that the study tells a great deal about his own position, justify the omission from this review of the customary recital of the book's contents. This will allow more space for a discussion of Russell's treatment of the subject.

Written in a lucid style, the study excels in its incisive discussion of some of the most perplexing epistemological problems. While Russell is at his best in elucidating and criticizing ideas and in tracing the evolution of

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philosophical systems, he is less deft in relating ideas to social and political conditions. In this respect, his attempts fall short of what has been done for political theory, for example, by Sabine.

Not that Russell's book lacks in historical narrative. In the light of its stated purpose, however, the explicit references to the interaction of ideas and social and political circumstances appear to be sketchy. In 1943, he announced that in this history every important philosophical system would be "treated equally as an effect and as a cause of social conditions." In the introduction, Russell states that the topic of this volume is the interaction between "the circumstances of men's lives and their philosophy." Considering these intentions, and the fact that Russell regards ideas as one of the primary historical causes, his attempts at such correlation appear to be half-hearted. This may reflect a reluctance on his part to arrive at conclusions that cannot satisfy the criteria of validity which he seems to be predisposed to employ as a result of his outstanding work in mathematics and logic. Russell also does no more than allude to ramifications of certain philosophies, ramifications which appear to have been influential in conditioning the "circumstances of men's lives." The stated objective of the book entitles one to expect a more comprehensive treatment of such ideological developments, regardless of whether they are "bad" from the standpoint of "truth," or logic, or from that of their apparent influence.

When Russell adjudges an idea or philosophy to be simply "bad," it is not always clear whether the statement expresses a subjective moral condemnation of its presumed social influence or whether it denies the validity of methods or inferences. To those not familiar with Russell's own philosophic position, the significance of the latter type of judgment often will become clear only when they read the last chapter of the book, which explains the contribution of "logical analysis" to philosophy.

For the determination of ultimate questions of value, "scientific methods," according to Russell, "are inadequate. . . . Whatever can be known can be known by means of science; but things which are legitimately matters of feeling lie outside its province" (p. 834). From the standpoint of this substantive dualism, he criticizes philosophy, which "throughout its history has consisted of two parts inharmoniously blended: on the one hand, a theory as to the nature of the world, on the other, an ethical or political doctrine as to the best way of living. The failure to separate these two with sufficient clarity has been a source of much confused thinking" (p. 834). Anthropocentric doctrines, according to Russell, are guilty of "cosmic impiety"; he definitely favors philosophies which concern themselves with "the nature of the universe" and which advance mechanistic rather than teleological explanations.

The book gives every indication that Russell considers freedom the

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highest political good and that he fears the excesses of political power above all. However, he insists that the philosopher must disinterestedly search for answers to questions as to the constitution of the universe which have "the quality of science." Russell reprobates the invention of arguments in support of beliefs that are supposed to make men "virtuous." Apparently there is only one antidote against that "madness—the intoxication of power" that philosophy can legitimately provide. This is to extend "the habit of careful veracity" acquired in the disinterested pursuit of knowledge according to the method of "logical analysis" to the "whole sphere of human activity." Russell expects the extension of this habit to produce "a lessening of fanaticism with an increasing capacity of sympathy and mutual understanding" (p. 836).

It is to be hoped that this supposition of a "transfer of training" has "the quality of science"!

HENRY JANZEN.

U. S. Department of State.

BRIEFER NOTICES

AMERICAN GOVERNMENT AND POLITICS

The global war has left in its wake the gruesome horrors of displaced peoples and the forced migration of unwanted minorities, and mankind stands aghast and wonders whether a more humane way could not have been found. For any American who is inclined to be pharisaical about this situation, some uncomfortably sobering facts are presented in Grant Foreman's *The Last Trek of the Indians* (University of Chicago Press, 1946, pp. 382, $4.00). Here is a well-documented and carefully prepared record of the removal of some sixty Indian tribes mostly from the East, but also in part from the West, North, and South, to the patchwork of new Indian fatherlands which were later consolidated into the state of Oklahoma. While many, "without a murmur or a whine about the change," moved in an orderly fashion in accordance with the often liberal treaties they had signed, "some fought like demons till they were overpowered and roped." They suffered from the diseases and the fire-water to which the white immigrants had introduced them and from the inadequacy of their equipment and supplies. Inter-tribal conflicts were not uncommon. There were crimes and atrocities by irresponsible and greedy whites as well as by resentful and revengeful Indians. A special government commission in 1881 commented on the "incredible ineptitude, indifference, mismanagement, and neglect that had made the experience of the Indians needlessly disastrous and cruel." The author confines himself largely to the trek, with only an occasional reference to the accompanying legislation and litigation, the admission of the Indians to citizenship, the economic aspects, and the development of the Indian administration. He

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had made a very great contribution to the stock of material out of which some day the definitive and epic drama of the tragedy of the American Indian will be forged. Even with the advantage of hindsight, the citizen of today may well wonder whether that last trek could, after all, have been made any less painful, in view of the life-and-death conflict between two utterly irreconcilable economies or ways of life out of which it grew.—ARNOLD J. LIEN.

Those politicians and students of politics who want to know how to win friends and influence people on the vote-getting level can learn much from Marvin Wachman's *History of the Social-Democratic Party of Milwaukee, 1897–1910* (University of Illinois Press, 1946, pp. 90, $1.50 paper, $2.00 cloth). Writing a detailed history of the evolution of programs and men, Mr. Wachman traces the development of what was, at least for a time, the most successful local Socialist party in America—a group which in 1910 had gained legislative and administrative control of the city of Milwaukee and of Milwaukee county. The story starts on Friday night, July 9, 1897, at a meeting in Ethical Hall addressed by Eugene Victor Debs, and at which Victor L. Berger was one of the first to join the organization formally, and it ends with the stirring 1910 spring election triumph of the city officials headed by Mayor Emil Seidel and the capture of county constitutional offices by the party in the following fall election.

Victor Berger himself was sent to Congress from Wisconsin's fifth district as the first Socialist congressman in the United States. Within this span of thirteen years were packed the clashes of personality and principle inevitable in a growing political movement. Above all, one gets a friendly view of Berger, the "practical idealist" and politician extraordinary: a socialist of the Lassalle-Kautsky-Bernstein school, editor, orator, and organizer of a people's movement. It is interesting to note that Berger saw in fusion with LaFollette Republicanism an end to genuine reform and the death of his own party. Moreover, in Socialist party platforms of the years covered one finds much that has been credited to the LaFollette Progressive movement. Socialist legislators from Milwaukee were an important element in the state legislatures that made Wisconsin political and legal history between 1905 and 1915.—HOWARD J. MCMURRAY.

Interviewing for NORC (National Opinion Research Center, University of Denver, 1946, pp. 154, $2.00) is a manual of basic instructions for the staff of interviewers retained by the National Opinion Research Center, incorporated in 1941, with a grant from the Marshall Field Foundation as "the first non-profit, non-commercial organization to measure public opinion in the United States." Research has demonstrated that the in-

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terviewer can intimidate respondents to such a degree that the accuracy of the poll is undermined. National polls during presidential elections and surveys on other controversial matters indicate an underestimation of persons in the lowest economic level. Furthermore, the social status of the interviewer was shown to affect response when two groups of interviewers —one of the white-collar or middle class, the other of the working class— went into low rental areas of Pittsburgh with the same questionnaire and the same instructions. This detailed analysis of the interviewer's job by the NORC emphasizes the crucial rôle of the interviewer in opinion polls, no matter how advanced the other techniques and procedures that make up the completed survey. Great care is given in the volume to explaining the meaning of economic level and its importance as one of the three most obvious factors in opinion measurement. An organization that can train a staff of interviewers to judge accurately the economic level of respondents in the search for a representative sample has gone a long way toward winning public confidence for opinion surveys. In this lucidly written voume, NORC indicates that it is trying to do just that.—BELLE ZELLER.

FOREIGN GOVERNMENT AND POLITICS

The period from 1870 to 1919 is one of the most neglected and misunderstood in Italian history. There are various reasons for this, not the least of which is the highly prejudicial interpretation peddled by a generation of Fascist "historians," who naturally had every incentive to belittle the achievements and political figures of the pre-Fascist era in order to glorify the Mussolini régime. An admirable corrective to both this neglect and distortion is S. William Salomone's *Italian Democracy in the Making* (University of Pennsylvania Press, 1945, pp. 148, $2.50), bearing the subtitle "Politics in the Giolittian Era, 1900–1914." Though this era in Italian politics may be identified as that during which Giolitti exercised almost unchallenged sway in the Parliament at Rome, it is clear from Mr. Salomone's monograph that he was far from being the "dictator" that many have called him. The very necessities of Italian politics, with its ever-changing balance *between* parties, as well as *within* parties, obliged anyone who would keep in power to be a compromiser, or a "fixer," par excellence. To keep on top of the parliamentary heap year after year, as Giolitti did with a few brief intermissions from 1900 to 1914, required a rare degree of political suppleness combined with enough political principle to inspire confidence but not enough to alienate votes. Giolitti came to power following the overthrow of the repressive régime that marked the last years of King Humbert's reign. He understood the progressive temper of the times, and to his credit it must be said that during his parliamentary "reign" Italy moved rapidly forward toward the creation of much more democratic government and society. The great contribution made by

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Salomone is his analysis of the political (and to a certain extent, social and economic) forces that impelled Giolitti and his parliamentary supporters to move in this direction. His chapters on the metamorphosis within the Socialist party are especially to be recommended. He also discusses "Catholics in Politics" and the importance of "Nationalist Currents." His book shows a diligent examination of the evidence and a real comprehension of the workings of Italian politics. His bibliography is extensive and well organized, though his comments on certain of the items listed may not enlist universal agreement. One of the most valuable and interesting sections of the volume is Professor Gaetano Salvemini's "Introductory Essay."—ROBERT GALE WOOLBERT.

Eric F. Schweinburg has performed a useful service for American lawyers and political scientists in outlining systems of law training employed in Austria, Germany, France, and Soviet Russia. But his *Law Training in Continental Europe* (Russell Sage Foundation, 1945, pp. 129) is more than a compendium. The problem he sees is whether the traditional Continental use of a law faculty to prepare students for *both* the practice of law and public service generally through a broad training in the fundamentals of law *and* political science is still valid. On the whole (and with particular reference to the Austrian system, with which he is obviously most familiar), his answer is in the affirmative. In defending this conclusion against those who would regard such training as too diffuse for the purposes of law practice, he emphasizes that the distinctly professional side of law is given *after* the academic degree in a seven-year apprenticeship program. And in defending his conclusion against those who urge the "emancipation" of public administration training from law he emphasizes the "incisiveness, mental order, and drive that can be acquired by a sound legal education." There is, however, nothing strident about Mr. Schweinburg's advocacy. He notes, for example, the frequently empty character of academic lecture course requirements, due to the lack of either adequate checking of attendance or frequent examination. He also notes the unreality of "academic freedom" as applied to continental conditions generally and (of course) National Socialist Germany in particular. By way of criticism, it is possible that the author is a little too sanguine as respects the disciplinary character of the apprenticeship training. Judges, for example, are responsible for the educational supervision of apprentice attorneys during their required year in different courts. But one wonders whether service rendered is not more likely to be emphasized than education. And surely this is much more likely to be true of the six-year period spent in either private law offices or in service of the state.—KENNETH C. COLE.

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Although the chapters on the people, the religion, the society, and especially Persian psychology, in *Iran* (Columbia University Press, pp. vii, 273, $3.50), by William S. Haas, are of considerable incidental interest to a political scientist, the final chapter is the portion of major significance. Reza Shah was the boss. Attempts at self-government will have all the difficulties of starting from scratch. Strangely enough, only the Tudeh group "deserves the name 'party,' but since it has sprung up within the war years (when there were no elections), it is not represented in parliament" (p. 229). Internationally, the constant factor for the country has been British-Russian rivalry, with Iran a kind of buffer upon which both great powers impinge. In this rivalry, the "trend swings decidedly to the advantage of the Russians" (p. 236), because of Russia's strength and strong strategic position, and because of the natural appeal of Russian ideology for the Persian masses, which are just beginning to awake. The author hopes, however, that Russian pressure on Iran will be decreased because of Russia's new access to the open seas on other borders. Even if the international problems are reduced, the author has not outlined very bright prospects for the emerging of the quality of leadership which must be produced to develop the wise social and economic policy required as the peasants emerge from a "social and political vacuum" (p. 231). Appendices on irrigation, finance, production and trade, and the treaty of 1942 and the Teheran Declaration of 1943 complete the volume.—WILBUR W. WHITE.

Professor T. Lynn Smith's *Brazil; People and Institutions* (Louisiana State University, 1946, pp. xxiv, 843, $6.50) is a most detailed sociological study, copiously furnished with graphs, charts, statistical data, and photographs. The author has spent much time in Brazil, both as a private citizen and as a representative of the United States Government. This book is obviously the result of untiring research while in that republic. It seems not too much to say that a social scientist, particularly a sociologist, can find almost any information on contemporary Brazilian society in this volume. There are seven chapters dealing with various phases of the population, six chapters explaining the relations of that population to the land, and four on social institutions. For the political scientist, Professor Smith's book is a disappointment; so little space is given to a discussion of Brazilian politics and government. Of the twenty-three chapters, only one deals with "Governmental Institutions." The national and state governments receive "only the briefest mention"; and this all too brief discussion is confined to "the analysis and description of local government institutions" (p. 738.)—WILLIAM M. GIBSON.

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INTERNATIONAL LAW AND RELATIONS

The subject under discussion in the Harris Foundation lectures given at the University of Chicago in July, 1945, was the United Nations Charter. *Peace, Security, and the United Nations* (University of Chicago Press, pp. 134, $1.50), edited by Hans J. Morgenthau, is the published result. In "Power and Justice," Professor Percy E. Corbett points out that the ideal of international justice is still in the realm of assertion and is not guaranteed by the Charter. Yet by establishing machinery for effective collaboration, the San Francisco Conference took a concrete step towards Corbett's practical conception of this ideal: long-term calculation of self-interest. Discussing "The Treatment of Enemy Powers," Professor Arthur Robert Burns advocates removal of basic war industries; reparation in the form of machinery, financial assets, and labor; and denazification—all of which should be combined with an adequate standard of living. Professor Malbone W. Graham discusses "Great Powers and Small States." The current emergence of "security states", whose strategic importance classifies them mid-way between the large and small, makes it impossible for the strong nations to ignore these middle states. Consequently the power of the great must be subject to constitutional limitations. Professor Frederick L. Schuman, in "Regionalism and Spheres of Influence," analyzes the provisions of the Charter for trusteeship as the legal basis for establishing regional domination by Russia, Britain, and the United States. An invasion of territories bordering these spheres of influence would result in war. As a result, agreement among the Big Three is imperative. Eugene Staley, in "World Organization on the Economic Front," urges control of depression cycles, acceleration of reconstruction, and expansion of foreign trade to encourage the organizations grouped under the Economic and Social Council. In this slender volume of five essays it is naturally impossible for the authors to give either a complete or entirely coördinated analysis of the vast problems indicated by the title. The work, nevertheless, provides insights by experts on issues that are still vital in the establishment of world peace.—FRED L. HADSEL.

In his *Great Britain in the World Economy* (Columbia University Press, 1946, pp. 314, $4.00), Alfred E. Kahn reviews Britain's position in the world economy prior to World War I, her problems and altered position subsequent to that war, and her post-World War II prospects. Britain's economic problems from 1919 to 1939 were not principally a result of changes wrought by World War I, but rather a result of changes in the world economy to which Britain was slow to adjust. The position of British industry deteriorated as the principal staple exports—coal, iron and steel, and cotton textiles—found markets narrowing. The growth of self-

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sufficiency among nations, their industrialization, and the diminished competitive power of British industry because of its failure to rationalize and modernize its methods of production were responsible for the loss of markets. Britain attempted to adjust to her altered position in the world economy by the development of new industries which catered mainly to home markets, by resorting to tariffs for the protection of the home market, and by the policy of empire preference and the creation of a sterling-area. Not only has Britain had to adjust her direction of productive activity and her trade relations, but she has had to make adjustments in respect to her balance of payments. Britain will benefit to some extent by the revival of international economic activity in the post-war world, but her basic difficulties in international trade will remain. While the future prospects of Britain, in the light of her past, are gloomy, she can still achieve a degree of prosperity. She retains a large, skilled working population; she is capable of considerable production and accumulation of wealth. The mobilization of these resources without the wastage in idle men and capital which the decline of foreign markets entailed in the inter-war period is essential if Britain is to provide reasonable well-being for her people.—NATHAN L. SILVERSTEIN.

In *World Politics Faces Economics* (McGraw-Hill Book Co., 1945, pp. 108, $1.25), Harold D. Lasswell makes a concise but significant contribution to the literature dealing with the economic policy of the United States and world peace. There is more in this small volume than one would expect; for, in outline form, there is a challenging discussion of the search for security and plenty. There is no pessimism and no acceptance of the inevitability of World War III, but there is a realistic analysis of those forces which will make for peace or war. Mr. Lasswell suggests that, in part, these forces may be controlled and directed if the United States will adopt an intelligent economic policy. America must provide economic security at home and maintain an even tempo of economic development; for, in the past, the erratic nature of American trade and investment has encouraged those conditions which make for war. But Mr. Lasswell also points out that, even in an age of super-states, the small powers have an important responsibility in the struggle for world security. While it will be natural for them to drift into the orbit of one of the Great Powers, they should be cautious in playing on the national rivalries of those Powers in an attempt to improve their own condition. Americans should read and ponder Mr. Lasswell's admonition that economic policy should aim to create a balanced rather than a predatory industrialization. There can be no peace and stability if foreign influences operating in small and backward countries insist on using their power to foster and protect entrenched political and economic minorities. There is in this book no attempt to gloss

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over the fact that there may be a high degree of instability in a world of super-states, but there is a healthy emphasis on the fact that future peace will depend upon a working relationship between the United States and Russia. There are obstacles in conflicting ideologies and national interests, but these do not necessarily mean armed conflict.—LAWRENCE PELLETIER.

Competent first-hand reports on Central Africa are rare, since the war and transportation difficulties have limited access to this vast area. Three missionaries, Jackson Davis, Thomas M. Campbell, and Margaret Wrong, surmounted these obstacles, and from September, 1944, to March, 1945, visited ninety-seven communities in Liberia, Belgian Congo, French Equatorial Africa, Nigeria, Togoland, and Sierra Leone. Their report, *Africa Advancing* (Friendship Press, 1946, pp. 230), is, as its subtitle indicates, "A Study of Rural Education and Agriculture in West Africa and the Belgian Congo." In describing the status of missionary education—which constitutes over ninety per cent of the program in these areas—the authors survey the existing facilities and discuss the relation of the missions to the government. This involves a benevolent but not uncritical analysis of the civilizing aspects of British and French colonial policy. In the same spirit, the authors discuss the agriculture of these countries and the difficulties involved in raising the standard of living in rural areas. Here, as elsewhere in the book, they give specific suggestions for improvement in the missionary effort. Formally, *Africa Advancing* is a report to British and American missionary groups. The fact, however, that it is based upon recent personal observation, shows sympathetic understanding and careful judgment, and is supplemented by a brief bibliography makes it a useful handbook for the student of colonial and African affairs. —FRED L. HADSEL.

The story of the struggle for the control of Manchuria during the two decades which immediately preceded the outbreak of the first World War is told in detail by Edward H. Zabriskie in *American-Russian Rivalry in the Far East* (University of Pennsylvania Press, 1946, pp. viii, 226, $3.50). The nature of the book is indicated by its sub-title. It is called "A Study in Diplomacy and Power Politics," and that is what it is. The author, in addition to making careful use of published materials in both English and Russian, has searched through the correspondence in the archives of the Department of State. He quotes freely from Russian sources and from hitherto unpublished English sources. The United States entered the arena of Far Eastern power politics with the annexation of the Philippines. Free as it was in its application from all taint of altruism, the Open Door policy of Secretary Hay proved itself a useful device for intervening in

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Manchuria. As the United States was unwilling to fight for what it wanted there, neither it nor the neutralization policy of Secretary Knox which followed it met with any noticeable success. The author's concluding chapter is entitled "Failure of Dollar Diplomacy in Manchuria."—RALPH A. NOREM.

POLITICAL THEORY AND MISCELLANEOUS

The January, 1946, issue of *The Annals of the American Academy of Political and Social Science* (Vol. 243, pp. x, 195, $2.00 paper), edited by William Draper Lewis and John R. Ellingston, bears the title "Essential Human Rights." This symposium consists of twenty-five articles and a joint statement by a committee of lawyers and political scientists appointed by the American Law Institute. The Committee's task was the exploration of the many and varied problems to be overcome in attaining the goal proclaimed in the United Nations Charter of "fundamental freedoms for all." The individual articles deal with the international importance of human rights, human rights in selected areas (Roman law countries, England and the United States, China, Islam, and Latin America), national legal protection of such rights, past and present international procedures for the protection of human rights, and the prospects for future international action to this end. The most interesting feature is the section devoted to "An International Declaration of Human Rights." Here the contributors discuss, in general and in particular, the content of such a declaration, and present their statement of what they consider to be "essential human rights." This statement contains eighteen articles; to eleven articles enumerating the traditional Anglo-American civil liberties, the Committee has added five economic and social rights (education, work, reasonable working conditions, food and housing, and social security), the right to participation in a democratic government, and a final article recognizing "the general relativity of rights" and declaring that "in the exercise of his rights every one is limited by the rights of others and by the just requirements of the democratic state." Each article in the statement includes a "comment" defining the terms employed and indicating the number of national constitutions recognizing the particular right under discussion. For example, freedom of association is defined to exclude associations aimed at "totalitarianism and the destruction of the political rights of others." The Committee has performed a valuable service in providing this enumeration of specific human rights as a stimulating basis for discussion. The Committee membership is representative of many different cultures; the essays reflect both optimism and pessimism, both idealism and practicality. Perhaps most significant is the fact that only one Committee member out of the total of twenty-five appears to have had any reservations concerning the inclusion of economic and social rights; moreover, all appear to have been

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agreed on the indispensability of self-government. The concept of sovereignty will doubtless prove a stubborn obstacle to the universal realization of these essential rights of man, but declaration and definition are important steps along the road to freedom.—CARLTON C. RODEE.

In *The Bill of Social Rights* (International Universities Press, 1946, pp. 152, $2.00), an English edition of a book recently published in French, Georges Gurvitch, author of the *Sociology of Law*, presents a brief but penetrating analysis of a timely subject. He reviews the trend, shown in the constitutional provisions of many countries, to extend jural guarantees in social and economic fields. He is emphatic in his belief that a bill of social rights must supplement and reinforce a bill of political rights. But he maintains that the provisions of bills of social rights of the recent past carry the danger of making the recipients of social security passive beneficiaries rather than active participants in an enlarged sphere of democratic action. "The only method to ward off tremendous dangers and to preserve and reinforce human liberty" is "to limit the State by an independent and autonomous self-governing Economic Organization which in turn would be limited by the State" (pp. 54–55). In place of worn-out political checks and balances, there must be developed pluralistic techniques of mutual limitations and equilibrium among democratically controlled groups. The book contains a twenty-page draft of a proposed bill of social rights for workers, consumers, and "the common man." They include, among others, the right to labor, the right to adequate salary and to "labor shares" in the enterprise, the right to leisure, the right to strike, the right to social security, the right to an education proportioned to individual capacity. More important to Gurvitch are the rights to participate in the management and planning of economic life through direct participation in management councils and representation in regional, national, and international economic councils. He envisions a mixed economy wherein private property would remain in a restricted sector, its power being limited by various forms of social property. Proudhon's influence is clearly more apparent than that of Marx. The whole analysis rests on that more recent French sociology of law of which Gurvitch is the principal expounder. His prescriptions, however, involve a degree of economic reorganization not likely soon to occur in most of the larger capitalist countries and a degree of decentralized pluralistic democracy not likely soon to be achieved in countries now under strong Marxist influence.—JOHN D. LEWIS.

On laying down Mary R. Beard's *Woman as Force in History* (Macmillan, 1946, pp. ix, 369, $3.50), one is convinced, with the author, that woman has been a much more important historical force than has in

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general been recognized. One can, unfortunately, however, not feel that in all respects the important subject with which the book is concerned has received logical and ordered treatment at the hands of its author. The reasons for the inclusion of some material, and for the arrangement of the material included, are not always clear. After three chapters of preliminary skirmishing, Mrs. Beard plunges into the main thesis of the book, which is that the position of woman through the ages has not in reality been as disadvantageous as has been believed, with the natural corollary that much of her struggle for equality with man has been a tilting at windmills. She presents as the first of these windmills the dictum of Blackstone that woman was "civilly dead" after she married. Mrs. Beard shows convincingly that in thus describing the legal position of woman, Blackstone was drawing only on the English common law, and was giving far too little attention to the mitigating effects of uses, trusts, and other arrangements for the protection of woman's property, which according to equity could be made by private agreement by both men and women. She shows, further, that in spite of the American revolt against the common law, and of the progressive effect of equity on the property rights of women, the leaders of the movement for sex equality in the United States, in 1848, found in Blackstone's interpretation of woman's legal disabilities a telling object of attack and a convenient rallying cry. The remainder of the book presents a medley of facts and observations intended to emphasize the significant part played by woman in all historical periods. The mass of material, not always entirely germane, is at times almost overwhelming. The effect on the reader, moreover, of the undocumented use of much highly technical material is to lead to a questioning of its complete reliability. And one is left wondering in the end just how woman's struggle for equality with man is to be explained.—Ellen Deborah Ellis.

The Institute of Juridical-Political Research of Argentina's University of the Littoral, perhaps not unmindful of the danger of critical comment concerning the nation's present régime, has turned its face to the past with a series of studies of the history of Argentine political ideas. The first volume of this series (*Las Ideas Políticas de Bernardino Rivadavia*, Santa Fé, Argentina, 1945, pp. 104) comes from the pen of the Institute's director, Salvador M. Dana Montaño, who is one of the most prolific writers in the field of Argentine government. Some of his works may fairly be called distinguished; others can be described more accurately as adequate. This little volume belongs to the second class. Although it treats of the life and times of Bernardino Rivadavia, whose monumental career left such a permanent impression upon his country, the book makes no effort to present a detailed and systematic evaluation of the great statesman's political philosophy. Instead, it summarizes in pleasant form the main

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facts of Rivadavia's career, together with a brief statement of the ideas behind the acts and a few shrewd guesses as to the source of these ideas. For the most part, this volume carefully avoids any reference to existing conditions in Argentina, but in one paragraph Professor Dana Montaño gives the back of his hand to the "state that is agnostic, neutral, liberal in the improper sense." The best government, he explains, "must be militant and must have ideals" (p. 23.) He does not attempt to elaborate this thought, which might perhaps be regarded as a hedge against his previous pro-democratic writings.—AUSTIN F. MACDONALD.

The Four Fears (Chicago: Ziff-Davis Publishing Company, 1944, pp. xvi, 189, $2.00), by Elbert D. Thomas, is a forthright political essay by one of the few scholars in the United States Senate. As such, it makes an important contribution to the ideology of democracy both during the war and in the postwar era. Accepting the assumption that the Rooseveltian Four Freedoms are paramount for the international good life, Senator Thomas analyzes four fears that stand in the way of the achievement of the Four Freedoms. The particular fears to which the author addresses himself are the fear of idealism, the fear of entangling alliances, the fear of England and of Russia, and the fear of revolution. On each count, Senator Thomas more than proves his case. Fortunately, the ridicule hurled at the so-called idealism of Woodrow Wilson has much abated. But even now, at each set-back of international coöperation, the protagonists of isolation again raise the cry that idealism always betrays the United States. Students of government and public opinion will find much sound wisdom in this political tract.—KENNETH COLEGROVE.

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RECENT PUBLICATIONS OF POLITICAL INTEREST

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AMERICAN GOVERNMENT AND PUBLIC LAW

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